

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No: LPA No. 147/2025
in [SWP No. 974/2009],
CM No. 4525/2025
CM No.4526/2025

1. UT of J&K through DIG of Doda
Kishtwar Range.
2. Senior Superintendent of Police,
Doda.

.....Appellant(s)....

Through: Ms. Monika Kohli, Sr.AAG.

Vs

Satish Kumar S/O Sh. Budhi Ram
R/O Bhuba, Tehsil Doda

..... Respondent(s)..

Through: None.

**Coram: HON'BLE THE CHIEF JUSTICE.
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT
05.08.2025

1. Applicants-respondents have filed an application bearing CM No. 4525/2025 seeking condonation of delay of 362 days in filing the Letters Patent Appeal against the order dated 21.05.2024 passed by the learned writ Court in SWP No. 974/2009 whereby the writ petition

preferred by the respondent-petitioner (SPO) was allowed and order dated 18.03.2009 passed by the Senior Superintendent of Police, Doda in respect of disengagement of the respondent-petitioner was quashed and liberty was granted to the applicants-respondents to proceed against the respondent-petitioner after complying with the principles of natural justice and affording him reasonable opportunity of being heard.

2. The cause projected by the applicants-respondents in the present application for condoning the delay is that after the judgment was pronounced, some time was consumed to complete the administrative formalities and to decide as to whether the order impugned is to be appealed or not and thereafter vide Govt. Order No. LAW-LITS/84/2025-10 dated 19.03.2025, sanction was granted in favour of the learned Senior AAG to file the appeal after nearly 10 months of the pronouncement of judgment by the learned writ Court. This appeal has been filed only on 18.07.2025 whereas the sanction to file the appeal was granted on 19.03.2025. It is not forthcoming as to why the appeal was filed after four months from the grant of sanction even if we grant some concession to the applicants-respondents.
3. The applicants-respondents have not been able to demonstrate sufficient cause, which prevented them from availing remedy of appeal under Letters Patent within the prescribed period, as such, we are not inclined to condone the delay.
4. Even otherwise on merits as well the applicants-respondents have no cause at all because the order impugned in the writ petition dated

18.03.2009 whereby the respondent-petitioner was disengaged by the applicant-respondent No.2 was stigmatic in nature and in the order dated 18.03.2009 it was mentioned that the contractual services of the respondent-petitioner are no more required by the Department as he has failed to perform his duties satisfactorily and with due dedication because he remained away from important duties. The learned writ Court has rightly determined the controversy.

5. The judgment dated 05.06.2014 relied upon by Mrs. Monika Kohli, learned Sr. AAG in case titled **State of J&K and others Vs. Mohammad Iqbal Mallah** passed in LPA No. 153 of 2012 is distinguishable on facts and is not applicable in the present case as in the said case it was not mentioned in the disengagement order that the respondent therein had not performed his duties satisfactorily and with due dedication. The order impugned in the accompanying appeal is stigmatic in nature and the respondent was required to be afforded due opportunity of hearing by the applicants-respondents before disengaging him.

6. It is settled law that even where appointment is contractual and contractual employee is to be disengaged on account of some misconduct or adverse performance, he/she is required to be heard before disengaging from service. In this context, it would be appropriate to take note of the judgment of Hon'ble Supreme Court of India in case titled **U.P. State Road Transport Corporation and others Vs. Brijesh Kumar and another**, reported in 2024 INSC 638.

The para 19 is relevant, which is extracted here as under :-

“19. The services of the respondent have been determined solely on the ground of misconduct as alleged but without holding any regular inquiry or affording any opportunity of hearing to him. The termination order has been passed on the basis of some report which probably was not even supplied to the respondent. No show cause notice appears to have been issued to the respondent. **Therefore, the order of termination of his services, even if on contractual basis, has been passed on account of alleged misconduct without following the Principles of Natural Justice.** The termination order is apparently stigmatic in nature which could not have been passed without following the Principles of Natural Justice.” (Emphasis added).

7. We have also examined the merits of the claim of the applicants in view of the judgment of the Hon’ble Supreme Court of India in case titled **Inder Singh Vs. State of Madhya Pradesh** reported in 2025 INSC 382, wherein it has been held that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.
8. After giving our thoughtful consideration, we do not find any reason to show indulgence in the present application. Accordingly, the same is **dismissed**. Consequently, intra court appeal shall also stand **dismissed** along with connected CM(s).

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
05.08.2025
Madan Verma-Secy

Whether the order is speaking: Yes.
Whether the order is reportable: No.