

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

CJ Court

Case No: LPA No. 152/2025
in [WP(C) No. 1457/2022],
CM No. 4835/2025
CM No.4836/2025

1. UT of J&K through Principal
Secretary to Govt.
Home Department, J&K, Jammu
2. Director General of Police, J&K,
Jammu.
3. Senior Superintendent of Police,
Jammu

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

Through: Ms. Monika Kohli, Sr.AAG.

Vs

Shahen Shah S/o Sh. Thoru Ram,
R/O Lohari Chak, Tehsil and
District Jammu.

..... Respondent(s)

Through: None.

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

**JUDGMENT
06.08.2025**

1. Applicants-appellants have filed an application bearing CM No. 4835/2025 seeking condonation of delay of 248 days in filing the

Letters Patent Appeal against the order dated 07.06.2024 passed by the learned writ Court in WP(C) No. 1457/2022 whereby the writ petition preferred by the respondent-petitioner (SPO) was allowed and order dated 20.09.2019 passed by the Senior Superintendent of Police, Jammu in respect of disengagement of the respondent-writ petitioner was set aside.

2. We have gone through the application. Sufficient cause has been shown for condoning the delay.
3. Accordingly, for the reasons detailed in the application coupled with the submissions made at the Bar, this application is allowed. The delay in filing the Letters Patent Appeal is condoned.
4. Application CM No.4835/2025 is **disposed** of.
5. Main appeal is taken on board.

LPA No.152/2025, CM No. 4836/2025

6. The facts which emerge from the writ record are that respondent-writ petitioner by way of writ petition bearing WP(C) No. 1457/2022 challenged Order No.1230 of 2019 dated 20.09.2019 passed by respondent No.3-Senior Superintendent of Police, Jammu, before the Writ Court, whereby he was disengaged from the rolls of Special Police Officer (SPO) of District Police, Jammu, on the ground that he remained absent from duty w.e.f. 19.03.2019 and was also involved in case FIR No. 113/2019 under Sections 376/342 RPC Police Station, Domana. It is also stated in the order that such act of the respondent-petitioner (SPO) was not only a grave misconduct, but, had brought bad name/image to the Police Organization.

7. The learned writ Court after hearing the parties vide order dated 07.06.2024 allowed the writ petition of the respondent-writ petitioner by setting aside Order No.1230 of 2019 dated 20.09.2019 and the respondent-writ petitioner was restored as SPO in Jammu & Kashmir Police with all consequential benefits excluding the payment of emoluments for the period with effect from the date of his disengagement till the date of restoration of his service as Special Police Officer (SPO). Learned writ Court held that the appellants-respondents were required to provide an opportunity of being heard to the respondent-writ petitioner before passing the order dated 20.09.2019, but, without providing opportunity of hearing, the respondent-writ petitioner has been dismissed.
8. Being aggrieved of order of learned writ Court dated 07.06.2024, the appellants-writ respondents have filed instant intra court appeal on the grounds that the SPOs are appointed on contractual and temporary basis and they do not hold any permanent post in the police department. Since SPOs are not permanent employees, the authorities are not required to conduct a formal inquiry before disengaging them. The engagement of SPOs is purely at the discretion of the police department. If the department finds that an SPO is not suitable for duty, it has the right to remove him/her without any justification. It is further contended by the appellants-writ respondents that, apart from the criminal case, the respondent-writ petitioner was removed because he remained absent from duty without permission since 19.03.2019 and his unauthorised absence is itself a valid ground for termination,

even for regular government employees. It is also contended that the respondent-writ petitioner was accused in FIR No.113/2019 under Section 376 and Section 342 RPC, where there were serious criminal charges and involvement in such a case severely impacts the reputation of the police force. Thus, it is contended that the learned writ Court has ignored this key fact while granting reinstatement of the respondent-writ petitioner.

9. In the present case, respondent-writ petitioner has put a challenge in the writ petition to the order dated 20.09.2019 on the ground that the same is in contravention of the rules of natural justice, having been issued without holding a departmental enquiry or giving an opportunity of being heard to the respondent-writ petitioner to explain his position and vindicate his honour, but, the sole basis upon which the order impugned dated 20.09.2019 has been issued against the respondent-writ petitioner by the SSP, Jammu, was that he was involved in case FIR No.113/2019 registered with Police Station Domana for the commission of offences punishable under Sections 376/342 RPC. In the said FIR, the respondent- writ petitioner was acquitted of the charges levelled against him vide judgment dated 27.12.2021 passed by the Presiding Officer, Fast Track Court, Jammu. On being acquitted, the respondent-writ petitioner approached the appellants-writ respondents and submitted representation dated 19.02.2022, however, no action was taken on his representation. Before passing the order dated 20.09.2019 by which the respondent-writ petitioner was disengaged, the appellants-writ respondents were

required to provide an opportunity of being heard to the respondent-writ petitioner, so as to defend his position, but, in the instant case, appellants- writ respondents without affording any opportunity of being heard to the respondent-writ petitioner have terminated/disengaged the respondent-writ petitioner from the service which is palpably bad in the eyes of law as the order impugned being stigmatic in nature has been passed in violation of the principles of natural justice.

10. 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. In the present case, respondent-petitioner was disengaged on the ground that he was involved in serious criminal case, but, later on he was acquitted of the charges levelled against him by the Presiding Officer, Fast Track Court, Jammu and also on being remained absent from duties.
11. 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 him/her from services. In this context, it would be appropriate to take note of the judgment of the 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).

12. After giving our thoughtful consideration and deep contemplation to the issues agitated in the intra court appeal, we arrive at an inescapable conclusion that the judgment passed by learned Single Judge, being reasoned one, deserves no interference from us, as the same cannot be found fault with, while viewing from any angle. The learned Single Judge, in our view, has rightly put the controversy to quietus. The judgment of learned Single Judge is, thus, upheld.
13. Viewed thus, we do not find any merit in this appeal. Accordingly, the same is **dismissed** along with connected CM(s). However, dismissal of this appeal shall not come in the way of the appellants-writ respondents to proceed against the respondent-writ petitioner if they intend to do so.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
06.08.2025
Madan Verma-Secy

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