

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 12.08.2025

Pronounced on: 22.08.2025

CJ Court

WP(C) No.1912/2025

1. Abdul Majeed Sheikh, aged: 57 years S/o
Mohammad Sheikh R/o Haft Chinari
Tehsil Srinagar, UT of J&K

...PETITIONER(S)

Through: - Mr. H. Furrahi, Advocate.

Vs.

1. Union Territory of J&K through Principal
Secretary to Govt. Home Department, Civil
Secretariat, Srinagar/Jammu.
2. Director General of Police, J&K
Headquarters, Srinagar/Jammu.
3. Additional Director General of Police,
Armed, J&K Srinagar.
4. Commandant, Armed Police 3rd Bn.
Security, APC, Zewan, Srinagar, Union
Territory of J&K, Srinagar.

...RESPONDENT(S)

Through: - None.

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

JUDGMENT

OSWAL 'J'

1) The petitioner, who was working as a Constable in J&K Police, was directed to undergo refresher course with effect from 05.09.2001. After reporting at the training centre, the petitioner deserted the camp with effect from 12.09.2001. The petitioner was informed about his unauthorized absence through various communications including show cause

notice served upon him on 19.03.2002. The said show cause notice was also published in daily newspaper “Indian Times”. The petitioner did not respond to the aforesaid notices, resultantly, in terms of order dated 11.05.2002, he was discharged from service, for his continuous absence from duty with retrospective effect from 12.09.2001.

2) After remaining in deep slumber for a period of about 22 years, the petitioner approached the Central Administrative Tribunal, Srinagar Bench (for short “the Tribunal”) through the medium of OA No.670 of 2024 for quashing the order dated 13.07.2024 by releasing pensionary benefits in his favour and for directing the respondents to dispose of his representation dated 12.07.2002 by reinstating and allowing him to continue till the date of his superannuation by paying him all emoluments/salary for the period of absence on the ground that his absence was neither deliberate nor intentional but because of his psychiatric ailment/disorder. It was stated by the petitioner that a legal notice dated 27.03.2023 was served upon Commandant, JKAP 3rd Bn. Security, Srinagar, and the same was responded to in terms of reply dated 20.04.2023, wherein it was stated that being a habitual absentee; till his discharge from the government service, he had earned 20 punishments in all, and period of about

hundred days has been treated as dies-non for remaining absent from duties and his request for reinstatement after a gap of 21 years is not covered under rules. The petitioner further claims to have served legal notice dated 29.06.2024 along with order dated 05.06.2024 passed by the learned Tribunal in O.A 361/2024, pursuant to which order dated 13.07.2024 came to be passed by the respondent No.4, whereby the claim of the petitioner was rejected.

3) Vide impugned order dated 12.02.2025, the OA No. 670/2024 preferred by the petitioner was dismissed by the Tribunal, being barred by limitation.

4) Prior to OA No. 670/2024, the petitioner had filed another OA No. 361/2024 for directing the respondents to dispose of his representation dated 12.07.2002, by reinstating and allowing him to continue till his superannuation by paying him all the emoluments/ salary for the period of absence. The said OA was dismissed vide order dated 05.06.2024 being barred by limitation, leaving the petitioner free to pursue his remedies whatever available under law.

5) Thereafter another notice dated 29.06.2024 was served upon the respondent No.4, seeking recall of order dated 11.05.2002 by reinstating him to his original position and for releasing the pensionary benefits and other

allowances. It is worthwhile to mention here that in legal notice dated 27.03.2023, it was admitted by the petitioner that he was discharged from service vide order No.103/2002 dated 11.05.2002. The said legal notice was replied by the respondent No.4 in terms of reply dated 20.04.2023. The notice dated 29.06.2024 was responded to by the Commandant JKAP 3rd Bn. in terms of reply dated 13.07.2024 wherein it was stated that in terms of Rule 335 of the J&K Police Manual and Article 128 of the J&K CSR, the petitioner was discharged from service with effect from 12.09.2001 and his claim is not covered under rules. It was also stated in the reply that the petitioner has awakened after a period of more than 22 years.

6 The learned Tribunal vide impugned order dated 12.02.2025, has dismissed OA No.670/2024 on the ground that the petitioner cannot claim any benefit unless the dismissal order is set aside and that the OA suffers from gross delay and laches having been filed nearly 24 years after the petitioners dismissal from service. The learned Tribunal, while dismissing the OA preferred by the petitioner, has relied upon the judgments of the Hon'ble Apex Court in **State of T. N. vs. Seshachalam**, (2007) 10 SCC 137, **C. Jacob vs. Director of Geology and Mining**, (2008) 10 SCC 1151, **Union of India vs. M. K. Sarkar**,

(2010) 2 SCC 59, and **State of Uttaranchal & anr. Vs. Shiv Charan Singh Bhandari**, (2013) 12 SCC 179, and observed that mere filing of representation will not extend the limitation period for filing the OA before the Tribunal.

7) Once the learned Tribunal had dismissed OA No.361/2024 for similar relief i.e. for directing the respondents to dispose of representation dated 12.07.2002 by reinstating and allowing him to continue till the date of his superannuation, the petitioner could not have filed fresh OA for the same cause. More so, the petitioner has been punished for unauthorized absence under Rule 335 of J&K Police Manual, though expression ‘discharge’ has been employed by the respondent No.4 and until the order dated 11.05.2002 is set aside, the petitioner cannot claim even pensionary benefits.

8) In view of the above, we do not find any reason to show indulgence. The writ petition is found to be misconceived and is dismissed accordingly.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
22.08.2025
“Bhat Altaf”

Whether the Judgment is speaking:	Yes
Whether the judgment is reportable:	No