

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

Reserved on: 13.08.2025
Pronounced on : 22.08.2025

**CM No. 7407/2024 in
RP No. 83/2024**

UT of J&K & Ors.

... **Petitioner(s)**

Through: Mr. Jahangir Ahmad Dar, Advocate

Vs.

Jamsheed Ahmad Khan & Ors.

...**Respondent(s)**

Through: Mr. M.A Beigh, Advocate with
Mr. B.A Zargar, Advocate

CORAM:

**HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

Per- Javed Iqbal Wani-J'.

1. By this Order, we propose to dispose of application being CM NO. 7407/2024, wherein condonation of delay is being sought in filing review petition being RP No. 83/2024 arising out of WP(C) No. 296/2024.
2. The averments made in para 2 & 3 of the application in hand being relevant and significant for its disposal *in extenso* are extracted and re-produced hereunder for the sake of brevity and convenience;

2. *“That, after having received the copy of the impugned order/judgment passed by this Court as passed in the relevant matter, the matter remained under examination in the Administrative Department and the*

mater was examined by the respondents in light of the records. In the process, the respondents were required to collect the records from various offices and also to obtain legal advice from the Department of Law, Justice and Parliamentary Affairs. Sanction to file review petition was given by the law department by virtue of communication dated 18.10.2024 (Friday), which was received on 21.10.2024 (Monday). The examination of the matter and consideration of the question of filing of the Review Petition at various levels obviously led to consumption of time. The learned counsel took up the matter with the Department for furnishing the requisite information along with certified copy of the judgment dated 28.08.2024. Accordingly, the certified copy of the judgment was received on 30.10.2024 from the Registry. After receiving the relevant records, the learned counsel requested the department to provide records of SWP No. 498/2012 titled Altaf Hussain Wani Vs. State & Ors and Ghulam Hassan Zargar Vs. UT of J&K. Since the records dated back to 2012 took some days to trace the record. Accordingly, the records were provided to the learned counsel on 08.11.2024. Thus, the delay has not been caused in filing of the Review Petition deliberately, willfully or intentionally.

3. *That it is submitted that the matter covered by the Review Petition involves very important questions of law, which require authoritative adjudication of this Court. Thus having regard to facts and circumstances of the case, the delay in filing the review petition deserves to be condoned so that a meritorious case is not thrown out without examining the case on merits.*

3. **Objections** to the application have been filed by the non-applicant/respondent 1, wherein the application is being opposed on the premise that the same does not spell out “**sufficient cause**” for condonation of delay.

Heard learned counsel for the parties and perused the record.

4. Before proceeding further in the matter, it would be profitable to mention here that it is settled that law of limitation has to be applied with all its rigor prescribed by a statute and although the Limitation Act does provide for extension of period of limitation in certain cases, however, the appellant/applicant seeking such extension is required to satisfy the Court that there has been sufficient and plausible cause for not preferring the appeal or making the application within the prescribed period.
5. A reference hereunder to the following judgment of the Apex Court would also be advantageous being relevant herein.

The Apex Court in case titled as **“Perumon Bhagvathy Devaswam Vs. Bhargavi Amman reported in 2008(8) SCC 321”** has at para 13(iii) besides other principles qua an application under Section 5 of the Limitation Act held as under:-

“(iii) The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation”.

The Apex Court in case titled as **“Office of the Chief Post Master General and Ors. Vs. Living Mewdia India & Anr. Reported in 2012(3) SCC 563”** has at para 29 observed as under;

“(29). It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy

fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.”

The Apex Court further in case titled as **“State of Madhya Pradesh and Ors Vs. Bherulal reported in 2020 (10) SCC 654”**, has at paras 3 and 5 laid down following: -

“3. No doubt, some leeway is given for the Government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government [LAO v. Katiji]. This position is more than elucidated by the judgment of this Court in Post Master General v. Living Media India Ltd. (2012) 3 SCC 563 where the Court observed as under:-

27) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28) Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to

advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and 11 available. The law of limitation undoubtedly binds everybody including the Government.

29) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red- tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30) Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.” Eight years hence the judgment is still unheeded.

5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which

can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.”

The Apex Court further in case titled **Sheo Raj Singh (Deceased) through Lrs. and Others Vs. Union of India and Another reported in 2023 SCC Online SC 1278**, has at para 29 held as under:-

“ 29. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an ‘explanation’ and an ‘excuse’. An ‘explanation’ is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must however be taken to distinguish an ‘explanation’ from an ‘excuse’. Although people tend to see ‘explanation’ and ‘excuse’ as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real. An ‘excuse’ is often offered by a person

to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an 'excuse' would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations 9 and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication."

6. Keeping in mind the aforesaid position and principles of law and reverting back to the case in hand, the perusal of the contents of the application referred in the preceding paras manifestly reveal that the petitioners/applicants have applied for the certified copy of the judgment on 29.10.2024 and received on 30.10.2024, despite the fact that judgment have had been passed on 28.08.2024 that too in presence of the counsel for the applicants herein and no explanation worth the name has been offered in the application in hand as to why certified copy was applied for after a period of more than two months although the judgment have had been uploaded on the website of the Court immediately after its passing by the Court.
7. A closer examination of the application in hand also tends to show that the applicants herein even after the grant of sanction by the Law Department for filing of the review petition have consciously allowed the prescribed period of

9. Accordingly, the application is ***dismissed*** along with accompanying review petition No. 83/2024.

SRINAGAR:
22.08.2025
"S.Nuzhat"

Whether the order is speaking	Yes
Whether the order is reporting	Yes