

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

RP No. 61/2025 in
WP(C) No. 726/2024

Reserved on: 23.12.2025
Pronounced on: 18.08.2026
Uploaded on: 18.08.2026

Whether the operative part or full
judgment is pronounced: **Full**

Kamlesh Kaur

.... Petitioner/Appellant(s)

Through:- Mr. Arjun Bhatia, Advocate.

V/s

Union of India and others

.....Respondent(s)

Through:- Mr. Vishal Sharma, DSGI
with Mr. Eishaan Dadhichi, CGSC

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE
JUDGMENT

1. The present review petition has been filed by the petitioner seeking review of the judgment dated 30.08.2025 passed by this Court in WP(C) No. 726/2024, titled '*Kamlesh Kaur vs. Union of India and others*'.
2. The husband of the petitioner, Late Rect. Manjit Singh, was enrolled in the Indian Army as a Recruit/Sepoy on 01.09.1977 and was invalidated out of service on 29.05.1978 after rendering about 270 days of service. His claim for disability pension was rejected by the PCDA (P), Allahabad, vide letter dated 17.07.1979, on the ground that the disability was '*neither attributable to nor aggravated by military service*'. Thereafter, Late Rect. Manjit Singh expired in a motor vehicle accident on 22.11.1995.
3. The petitioner approached the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu, by filing Original Application No. 218/2019 seeking grant of disability pension in respect of her deceased husband and

consequential family pension. The Tribunal, vide order dated 24.01.2023, dismissed the Original Application on the ground that the order of rejection of his disability pension was never challenged by her husband during his lifetime. In fact, the assertion that his invalidation from service was attributable to or aggravated by military service was also not controverted by him. It was further held that after more than two decades of his death and after the service records had been destroyed in accordance with the prescribed retention policy, the claim could not be adjudicated on mere assumptions in the absence of the relevant material.

4. Aggrieved of the order of dismissal dated 24.01.2023, the petitioner assailed the same by way of WP(C) No. 726/2024 before this Court on the ground that the claim of the petitioner could not be rejected merely on the ground of non-availability of record. The respondents opposed the writ petition, *inter alia*, contending that the disability pension claim which was rejected in the year 1979 was never challenged by Late Rect. Manjit Singh during his lifetime, as such, the same would not be raised after more than 40 years. It was also pleaded that the service records had been destroyed in the year 2008 after expiry of the prescribed retention period and, except for the Long Roll, no relevant record was available for consideration.
5. Upon consideration of the rival submissions, the writ petition was dismissed vide judgment dated 30.08.2025, by holding that the petitioner's husband had accepted the rejection of his disability pension claim during his lifetime and the petition was preferred after an inordinate lapse of 40 years. Accordingly, the writ petition was dismissed both on merits as well as on the ground of delay and laches.

6. The petitioner now seeks review of the judgment dated 30.08.2025, primarily on the ground that there is an error apparent on the face of the record. It is contended that this Court dismissed the writ petition on the ground of delay and laches without appreciating that pension is a recurring cause of action and that pensionary provisions are required to receive a liberal interpretation. It is also urged that the judgments relied upon by the petitioner during the hearing of the writ petition were not considered.
7. Heard learned counsel for the parties and perused the record.
8. The review of a judgment/order passed in a writ petition is governed by Rule 65 of the J&K High Court Rules, read with Order XLVII Rule 1. Rule 65 of the J&K High Court Rules reads as under:

“65. Application for review of judgment - The Court may review its judgment or order but no application for review shall be entertained except on the ground mentioned in order XLVII Rule I of the Code.”
9. The principles governing review under Order XLVII Rule 1 CPC are equally applicable to proceedings under Article 226 of the Constitution. A judgment may be reviewed only upon the discovery of new and important matter or evidence which, despite due diligence, was not within the knowledge of the applicant or could not be produced at the time of passing of the judgment, or where there is a mistake or error apparent on the face of the record, or for any other sufficient reason.
10. Keeping in view the aforesaid settled principles governing the exercise of review jurisdiction, it is to be examined whether the petitioner has been able to demonstrate any error apparent on the face of the record, discovery

of any new and important matter, or any other sufficient reason warranting review of the judgment dated 30.08.2025.

11. The primary ground urged by the petitioner is that this Court ought to have decided the writ petition on merits since pension is a recurring cause of action. There can be no quarrel with the settled proposition that pension gives rise to a recurring cause of action. However, the said principle does not dispense with the requirement of establishing entitlement on the basis of the material available on record. A recurring cause of action cannot, by itself, substitute proof where the foundational record is admittedly unavailable.
12. In the present case, the person who was entitled to claim disability pension accepted the rejection of his claim during his lifetime for nearly 17 years and never questioned the same before any forum. Even thereafter, the petitioner did not initiate any proceedings for about 23 years after his death. Ultimately, the Original Application came to be filed after more than four decades from the rejection of the disability pension claim.
13. It is also contended that various judgments referred to by the petitioner during the hearing of the writ petition were not specifically referred to in the judgment under review. All the judgments referred to by the petitioner were considered but in the absence of any record, the same were of no help to the cause of the petitioner. Mere non-reference to every judgment cited by a party does not, by itself, constitute an error apparent on the face of the record. What is material is whether the Court considered the controversy and rendered its decision on the issues arising for determination. A review cannot be sought merely because every authority relied upon by a party has not been separately discussed.

14. The respondents have consistently taken the specific stand that, except for the Long Roll, no relevant service or medical record is available, as the records had been destroyed after expiry of the prescribed retention period. In the absence of the foundational record, the claim could not have been adjudicated merely on presumptions. The authorities relied upon by the petitioner proceeded on their own factual matrix where the requisite material was available for adjudication. Those decisions cannot be mechanically applied where the foundational service and medical records are admittedly unavailable owing to destruction after the prescribed retention period.
15. A careful reading of the review petition leaves no manner of doubt that the petitioner in fact is seeking a rehearing of the writ petition by inviting this Court to take a different view on the same material and arguments which was available at the time of deciding the writ petition. Such an exercise falls outside the scope of review jurisdiction.
16. The Hon'ble Apex Court, in **“Kamlesh Verma v. Mayawati and others”**, (2013) 8 SCC 320, while observing that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of the Code of Civil Procedure, summarized the governing principles as under:

“Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute: 20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in *Chhajju Ram v. Neki* [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and

approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd.* [(2013) 8 SCC 337 : JT (2013) 8 SC 275] . 20.2. When the review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negative.”

17. The power of review can be exercised only in exceptional circumstances where the Court is satisfied that there exists a patent error apparent on the face of the record which undermines the correctness of the judgment or results in miscarriage of justice. The petitioner, in essence, is seeking a re-hearing of the matter which is not permissible in the review proceedings. It is well settled that review is not a rehearing of the original matter. The power of review cannot be said equated with appellate power, which enables a superior Court to correct errors committed by a subordinate Court.

18. In “**Parsion Devi and others vs. Sumitri Devi and others**’, (1997) 8 SCC 715, it was held as under:

“Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not

self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

19. In the present case, the petitioner has failed to point out any discovery of new and important matter or evidence, any error apparent on the face of the record, or any other sufficient reason warranting review of the judgment dated 30.08.2025. The petitioner is, in substance, seeking reconsideration of the merits of the judgment, which is beyond the permissible scope of review jurisdiction.

20. Accordingly, finding no merit in the present review petition, the petition is dismissed. Pending application(s), if any, shall also stand disposed of.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:

18.08.2026

Michal Sharma/PS

Whether approved for reporting

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Yes