

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)**

**CM No. 712/2026 in
LPA No. 25/2026**

UT of J&K and Ors.

.... Appellant(s)/Petitioner(s)

Through: Mr. Jehangir Ahmad Dar, GA with
Ms. Shaila Shameem, Advocate

Vs

Bashir Ahmad Khan and Ors.

..... Respondent(s)

Through: Mr. L. A. Latief, Advocate
Mr. Mubashir, GA for R -21 and 22

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER

19.05.2026

CM No. 712/2026

1. This is an application for condonation of delay in filing an appeal seeking to challenge an order and judgment dated 25.01.2023, passed by the learned Single Judge (Writ Court) passed in **WP(C) No. 106/2023**. The delay is of 1058 days. The delay is sought to be explained *inter alia* on the ground that the judgment sought to be challenged in the appeal was passed by the learned Single Judge in *ex-parte*, without any notice to the applicants. It is submitted that the matter was taken up for consideration on 25.01.2023 for the first time and the petition was disposed of on the same day without even putting the respondents to a formal notice.

2. It is submitted that only the learned counsel for the Accountant General caused appearance on the said date. It is further submitted that because of this reason, the applicants were kept in dark about the decision which had adversely affected against them.

3. Appellants/applicants have also explained the delay by submitting that the matter, pertained to the Government and was, thus, taken up at different levels before a decision to file an appeal could be taken.

4. Respondent Nos. 1 to 20 represented by Mr. L. A Latief, Advocate have objected to the condonation of delay.

5. During the argument, Mr. L. A Latief, however, did not dispute that judgment in question was an ex-parte and against the applicants herein, and that there was no formal notice issued in the matter.

6. Be that as it may, having regard to the fact that the petition was disposed of on very first day without notice to the applicants, we find good reason and justification in condoning the delay. Therefore, the application is ***allowed*** and the delay in filing an appeal is condoned.

7. Otherwise also, we have seen the judgment impugned which appears to have been passed in violation of principles of natural justice. For the aforesaid reasons, we were inclined to construe the delay liberally and accept the application made by the appellants.

8. Accordingly, the instant application stands '***disposed of***'.

LPA No. 25/2026

9. This *intra Court* appeal is directed against a judgment and order dated 25.01.2025 passed by the learned Single Judge (Writ Court) in WP(C) No. 106/2023 titled, '***Bashir Ahmad Khan and Ors V/S Union Territory of J&K and Ors***'. The impugned judgment on the face of it is in violation of principles of natural justice, in that, the appellants herein, were never put on notice nor any opportunity of hearing was afford to them

10. The WP(C) No. 106/2023 was decided at the threshold i.e., on the very first date of hearing without any notice to the respondents. The judgment

impugned has called upon the appellants herein not to recover the amount paid erroneously by extending the benefit of SRO 59 of 1990. It also directs the appellants herein, to settle the claim of the respondents in the light of the judgment rendered in SWP No. 767 of 2012 dated 20.05.2013 without indicating as to how the case of the respondents was covered by the said judgment.

11. Be that as it may, the judgments impugned is passed in violation of principles of natural justice, therefore, cannot sustain.

12. For the aforesaid reasons, the appeal is liable to succeed. However at this stage, Mr. L. A. Latief, Advocate appearing counsel for the respondents would fairly submit that the controversy raised in the writ petition which has been disposed of by the learned single Judge in terms of the judgment impugned is fully covered by the judgment passed by the Division Bench in WP(C) No. 2416/2024 c/w WP (C) No. 3034/2024 titled '**Sita Ram & Ors V/s UT of J&K & Ors**' c/w '**Karan Kumar Vs. U.T of J&K & Ors**'.

13. He submits the he would feel would satisfied if judgment impugned is modified and the writ petition is **disposed of** in terms of aforesaid judgment.

14. Mr. Jehangir Ahmad Dar, GA learned counsel for the appellants has no serious objection to the proposal made by the learned counsel for the respondent Nos. 1 to 20.

15. Having regard to the submissions made by the learned counsel for both the sides, we are of the considered opinion that the judgment of the Sita Ram (supra) squarely applies to the case in hand. The order impugned is set-aside and writ Court judgment is disposed of with a direction to the respondents that they shall not make any recovery in respect of the amount already received by respondent Nos. 1 to 20 in term of benefits extended under SRO 59 of 1990.

However, the appellants shall be well within their rights to correct the error and fix pay and pension after ignoring the benefits of SRO 59 of 1990.

16. *Dispose of.*

17. The appellants shall expeditiously release the benefits due to petitioners without any further waste of time.

**(Sanjay Parihar)
Judge**

**(Sanjeev Kumar)
Judge**

**Jammu
19.05.2026
Javid Iqbal**