

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 1778/2023 IN RP No. 26/2023

ABDUL MAJID MAGRAY

.... Applicant(s)/ Petitioner(s)

Through: Ms Nighat Amin, Advocate vice
Mr Bhat Fayaz, Advocate

V/s

UT of J and K and others

....Non-applicant(s)/Respondent(s)

Through: Mr Furqan Yaqoob, GA

CORAM:

HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE
HON'BLE MR JUSTICE RAJESH SEKHRI, JUDGE

ORDER

11.09.2026

Moksha J, (Oral)

1. This is an application seeking condonation of the delay occasioned in filing the review petition to seek review of the judgment dated 18.05.2022 passed by this Court in LPASW no. 29/2019.

2. For the reasons stated in the application coupled with the submissions made by the learned counsel for the applicant as also in view of respondents having failed to file objections in opposition to it, the same is allowed and the delay occasioned in filing the accompanying review petition is condoned.

3. CM is disposed of.

RP No. 26/2023

1. Review petition is taken on board.

2. Heard learned counsel for the parties and considered the submissions made.

3. The instant review petition seeks review of the judgment dated 18.05.2022 passed by this Court in LPASW No. 29/2019, whereby, the question of the effective date of regularization of the review petitioner under the J&K Civil Services (Special Provisions) Act of 2010, for short Act of 2010, was decided.

4. The controversy stands conclusively settled by the Full Bench of this Court in LPA No. 70 of 2022, decided on 11.08.2026 at Jammu wing of this Court, which answered the reference on the interplay between Section 5 and Section 10 of the Act of 2010.

5. The Full Bench has, *inter alia*, held as under:

“(i) The first proviso to Section 5 of the Act of 2010 does not confer an unfettered power on the Government to decide the date of regularization of an eligible ad hoc, contractual or consolidated appointee, and must be read together with the main provision of Section 5, which is free to choose any date of regularization.

(ii) Section 10 is only procedural in nature, laying down the time-frame for processing regularization; the period of 150 days thereunder cannot be read into Section 5 for deciding the effective date of regularization. The right to regularization arises as soon as an employee fulfils all the conditions prescribed under Section 5, and cannot be postponed till the expiry of 150 days.

*(iii) Accordingly, neither Abdul Majid Magray nor Rabia Shah states the correct legal position in its entirety. **Abdul Majid Magray is overruled to the extent it holds that regularization takes effect only from the date on which the formal order of regularization is issued.** Rabia Shah is approved insofar as it holds that the Government cannot postpone regularization at its own will and that the right to regularization accrues on fulfilment of the statutory conditions; however, it is overruled to the extent it holds that regularization becomes effective only after the expiry of 150 days by reading Section 10 into Section 5.”*
(emphasis supplied)

6. The Full Bench has further directed that the judgment shall have prospective effect and shall apply to pending and future cases, and that cases already settled or finally disposed of shall not be reopened. The present matter, having remained pending by virtue of this review petition and not having attained finality, falls to be

governed by the law so declared more particularly for having specifically been addressed in the Full Bench judgment.

7. In view of the above, the review petition is allowed. The judgment/order dated 18.5.2022 passed in LPASW No. 29/2019 is recalled to the extent it is inconsistent with the law laid down by the Full Bench, and shall stand disposed of as follows:

(a) The effective date of regularization of the review petitioner shall be reckoned from the date on which the review petitioner fulfilled all the conditions prescribed under Section 5 of the Act of 2010, and not from the date of issuance of the formal regularization order, nor after expiry of 150 days from such fulfilment.

(b) The respondent(s) shall re-determine the effective date of regularization and consequential benefits accordingly, within a period of eight weeks from the date of receipt of a certified copy of this order.

8. Review petition is accordingly disposed of on the above lines.

(RAJESH SEKHRI)
JUDGE

(MOKSHA KHAJURIA KAZMI)
JUDGE

Jammu
11.09.2026
Amjad Lone, Joint Reg/Secy

Whether the order is speaking: Yes.