

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

Pronounced on: 28.07.2026

Uploaded on: 30.07.2026

CM No.4599/2026

in

RP No.32/2026

CM No.4600/2026

AMINA NASEEM & ORS.

...PETITIONERS/APPELLANT(S)

Through: - Mr. R. A. Jan, Sr. Advocate, with
Mr. Obaid Mir, Advocate.

Vs.

VISHWA BHARATI WOMEN'S WELFARE
INSTITUTION

...RESPONDENT(S)

Through: -

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER(ORAL)

CM No.4599/2026:

For the reasons stated in the application coupled with the submission made at bar, the delay in filing the review petition is condoned and the main review petition is taken on board for consideration on merits.

CM is disposed of.

RP No.32/2026

CM No.4600/2026

1) The review petitioners, who happen to be the contesting respondents in appeal, have sought review of judgment dated 05.06.2026 passed by this Court whereby the appeal filed by the respondents herein against the judgment and decree dated

29.01.2025 passed by learned 1st Additional District Judge, Srinagar, has been set aside.

2) It is pertinent to mention here that the review petitioners had filed a suit before the learned trial court against the defendants seeking a declaration that communications dated 06.07.2021 and 14.07.2021, whereby their services were terminated upon attaining the age of 60 years and their salaries were withheld with effect from June, 2021, are illegal and unsustainable in law. The learned trial court, after analysing the pleadings of the parties, exercised its jurisdiction under Order XII Rule 6 read with Order VIII Rules 3, 4 and 5 of the Code of Civil Procedure and decreed the suit of the review petitioners. The said judgment and decree of the learned trial court was challenged by the defendant by way of a regular appeal before this Court which was allowed by virtue of judgment under review and the matter was remanded to the trial court to proceed further in the case and decide the same in accordance with law.

3) The review petitioners/plaintiffs have sought review of the judgment dated 05.06.2026 on the grounds that there was an unequivocal admission made by the management of the defendant institute that, as a matter of policy, the employees including the faculty members of the institute, were being retired only after attaining the age of 65 years. In this regard,

the plaintiffs had placed on record unimpeachable material in the form of reply to the RTI query issued by the defendant institute but the same has not been alluded to by this Court while passing the judgment under review. Reference in this regard has been particularly made to the note appended to answer to the RTI query issued by the respondent institute vide its communication dated 02.08.2022.

4) It is a settled law that a judgment and order passed by a Court can be reviewed by the said Court only if there is an error apparent on the face of the record or that any material or fact has been discovered by a review petitioner which, despite due diligence, was not within his knowledge at the time of the decision of the case or for any other similar reasons. In the present case, the review petitioners have laid much emphasis on point No.3 mentioned in reply to RTI query, wherein it has been stated that it is a track record that the institution has been retiring the employees of Srinagar College at the age of 65 years right from the inception till date. Thus, according to the review petitioners, there is an admission on the part of the respondent institute that the employees and faculty members of the said institute were being retired only upon reaching the age of 65 years.

5) In the above context, it would be profitable to refer to para (17) of the judgment under review. In the said para, the Court

has taken note of the information furnished by defendant College under Right to Information Act vide communication dated 02.08.2021. After referring to the said communication, it has been observed by this Court that the plaintiffs have placed reliance upon Clause 8 of the Bye-laws and Rule 11 of the J&K Private Colleges (Regulation and Control) Rules. 2005. After noticing both these provisions, it has been observed by this Court that the maximum age of superannuation is 65 years and that the defendant institute has the power to fix the age of superannuation of an employee anything between 60 to 65 years.

6) In para (20) of the judgment under review, it has been observed that regarding information furnished vide communication dated 02.08.2021, the defendant college has taken a categorical stand that because management of the said college had migrated in the year 1990 on account of militancy, as such, they could not gather knowledge about the facts that the employees had continued beyond the age of 60 years and once they came to know about it, they immediately issued the impugned communications. It has also been observed by this Court that whether or not, the said stand of the defendant College can be accepted and whether or not they would be able to prove this fact, is a matter of trial and that the same cannot

be considered at the stage of deciding an application under Order 12 Rule 6 CPC.

7) From the aforesaid observations of this Court made in the judgment under review, it is clear that neither communication dated 02.08.2021 nor its contents have escaped the notice of this Court while passing the judgment under review. The view taken by this Court on the basis of contents of communication dated 02.08.2021 and the stand taken by defendant institute in its written statement may or may not be correct, but it is not open to this Court to sit in appeal over its own view while exercising its power of review. If at all the review petitioners have any grievance with regard to legality of the view taken by this Court on the aforesaid aspects of the matter, the proper course for them is to approach a higher forum and not to file a review petition.

8) For the foregoing reasons, I do not find any error, much less an error apparent on the face of record of the judgment sought to be reviewed that would persuade this Court to review the said judgment. The review petition is dismissed being bereft of any merit.

(Sanjay Dhar)
Judge

SRINAGAR

28.07.2026

“Bhat Altaf-Szegy”

Whether the Order is speaking:	YES
Whether the Order is reportable:	YES/NO