

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

**CM No. 5661/2026 in
RP No. 43/2026
CM No. 5662/2026**

Union Territory of Jammu & Kashmir & Ors.

... Petitioner(s)

Through: -

Mr T. A. Lone, Dy. AG.

V/s

Mohd. Iqbal Ganie & Ors.

... Respondent(s)

Through: -

None.

CORAM:

HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(ORDER)

02.09.2026

CM No. 5661/2026:

01. This is an application moved by the Applicants/ Review Petitioners under Section 5 of the Limitation Act, seeking condonation of delay in filing review against the Judgment dated 30th of January, 2020 passed by the Writ Court in SWP No. 1951/2017. It is apt to mention here that the said SWP No. 1951/2017 was filed by the Writ Petitioners, who are Non-Applicants/ Respondents herein, and the Applicants/ Review Petitioners were Respondents in the aforesaid Writ Petition.

02. In the instant application, it has been stated that the accompanying Review Petition could not be filed within the prescribed period of limitation of thirty (30) days from the date of Judgment and that there is a delay of **2365 days** in filing the same which needs to be condoned; that the delay in filing the Review Petition is neither deliberate nor intentional, but has occasioned only because of administrative/ procedural reasons; that after passing of the Judgment under Review on 30th of January, 2020, the matter remained under active consideration at various levels of the Department due to policy decisions of the Government relating to recruitment process and the matter required fresh examination by the

Administrative Department, for which purpose, relevant records had to be requisitioned from different offices, examined in detail and processed at various administrative levels.

03. It is further stated by the Applicants/ Review Petitioners that the implementation of the Judgement under review was being discussed in view of the fact that the General Administration Department (GAD), vide Circular No.02-GAD of 2019 dated 2nd of January, 2019, had conveyed to all the Departments the State Administrative Council (SAC) decision No.31/05/2018 dated 17th of July, 2018 and SRO-404 of 2018 dated 15th of September, 2018, whereby the Departments were required to refer the Class-IV vacancies to the General Administration Department (GAD) for consolidation and further reference to SSB; that in terms of the said SRO, the amendments had been carried out in the Jammu & Kashmir Civil Service Decentralization and Recruitment Act, 2010 as well as in the Jammu & Kashmir Civil Service Decentralization and Recruitment Rules, 2010 and the Jammu & Kashmir Service Selection Board (SSB) was notified as the recruitment agency for Class-IV posts borne on the establishment of any Department or service of Government, therefore, in law, the Class-IV posts were not available with the Department even before passing of the Judgement/Order dated 30th of January, 2020 which is under review; that, in the meanwhile, the Non-Applicants/ Writ Petitioners filed Review Petition bearing RP No.55/2021, which came to be dismissed as withdrawn vide Order dated 30th of March, 2022; that, the General Administration Department, vide No. GAD-MTGORBIV/200/2021-09-GAD dated 3rd of February, 2022, forwarded the Administrative Council Decision No.01/01/2022 dated 29th of January, 2022, in terms whereof, all the posts referred to the JKPSB/ SSB prior to 31st of October, 2018, in which selection has not been finalized as also the posts in which cases were pending in the Courts, were deemed to have been withdrawn, therefore, a stumbling block had already come in the way of implementation of Judgement under review.

04. The Applicants/ Review Petitioners further proceed to state that, thereafter in respect of the aforementioned Administrative Council

Decision dated 29th of January, 2022 and communication dated 3rd of February, 2022, the General Administration Department (GAD), vide OM No. GAD-MTGORBIV/35/2022-09-GAD-Part(3) dated 3rd of August, 2023 further clarified regarding withdrawal of posts and advised all the Departments that the posts are to be treated available with Department and not with the respective recruiting agencies from 3rd of February, 2022; that the Applicant-Department, still in order to bring more clarity relating to the instant case, took up the matter with General Administration Department (GAD) for advice, which returned the case vide U.O. No. GAD-MYGORBIV/129/2023-09 with the advice that no recruitment can take place on the basis of a reference made in the year 2013 and that all such references stand withdrawn; that, subsequently, in view of filing of the Contempt Petition bearing CCP (S) No.196/2022 by the Non-Applicants/ Writ Petitioners, the matter was again considered by the Department and Government Order No. 107-JK(FCS&CA) of 2023 dated 21st of September, 2023 was issued, whereby it was ordered that in view of the policy decision of the Government conveyed by the General Administration Department (GAD), the recruitment process initiated, in pursuance to Advertisement Notice dated 3rd of July, 2013 read with notice dated 16th of September, 2017, relevant to the instant case, could not sustain and, as such, was abandoned and no further action was taken to take the process forward.

05. In the application, it is further averred that, thereafter, the record of the case was referred to the Department of Law, Justice and Parliamentary Affairs, Government of J&K, for legal opinion, which accorded sanction to file the present Review Petition vide communication No.LAW-LIT7/865/2025-10 dated 22nd of July, 2026, whereafter, complete records and instructions were furnished to the Counsel for drafting and filing the accompanying Review Petition. In the light of these facts, the Applicants/ Review Petitioners plead that the delay has occurred on account of official procedural requirements and administrative decision-making and not due to any deliberate, wilful or *mala fide* conduct on the part of the Applicants/ Review Petitioners.

06. The Applicants/ Review Petitioners, in support of their case, have placed reliance on the following Judgments passed by the Hon'ble Supreme Court:

- i. **Collector Land Acquisition, Anantnag v. Mst. Khatiji, (1987) 2 SCC 107;**
- ii. **G. Ramegowada V. Land Acquisition Officer, (1988) 2 SCC 142; and**
- iii. **Thirunagalingam V. Lingeswaran & Anr., 2025 Online SC 1093.**

07. I have heard the learned Counsel appearing for the Applicants/ Review Petitioners and have also perused the pleadings available on record.

08. From the perusal of the pleadings available on record, it appears that the Writ Petitioners/ Non-Applicants herein had filed SWP No. 1951/2017 against the Review Petitioners herein, which came to be disposed of vide Judgment dated 30th of January, 2020. Against the said Judgment passed in the year 2020, the Writ Petitioners/ Non-Applicants herein filed a Review Petition bearing RP No. 55/2021 which came to be dismissed on 30th of March, 2022. That apart, the Writ Petitioners/ Non-Applicants herein, on not implementation of the Judgment under Review, preferred a Contempt Petition bearing CCP (S) No. 196/2022, wherein notice was issued on 21st of May, 2022 and pursuant to notice, the Applicants/ Review Petitioners filed Statement of Facts, stating therein that the implementation of the Judgment passed by the Writ Court was impracticable as the posts had been withdrawn in view of the State Administrative Council Decision taken on 2nd of January, 2019. The said Contempt Petition is still pending before this Court. It is clearly discernible from the perusal of the pleadings available on record that the Applicants/ Review Petitioners contested all the aforesaid three proceedings filed by the Writ Petitioners/ Non-Applicants herein viz. the main Writ Petition (SWP No.1951/2017, Review Petition (RP No. 55/2021) as also the Contempt Petition [CCP (S) No. 196/2022].

09. There is an inordinate and almost unexplained delay of **2365 days** in filing the Review Petition and the present application has been moved to condone this period without explaining as to how the Applicants/ Review Petitioners could not file the Review Petition within the period of

limitation or even thereafter before filing of the Contempt Petition. This Court takes judicial notice of the fact that the Judgment, sought to be reviewed by the Applicants/ Review Petitioners, was passed in favour of the Writ Petitioners/ Non-Applicants herein after hearing the Applicants/ Review Petitioners and in presence of their Counsel. The Applicants/ Review Petitioners had also contested the Review Petition earlier filed by the Writ Petitioners/ Non-Applicants herein, which came to be dismissed on 30th of March, 2022, on the same subject matter. Besides, the Review Petitioners are also facing contempt proceedings since 21st of May, 2022 before this Court with regard to the Judgment sought to be reviewed, as such, there is no reason, much less a sufficient one, projected by the Applicants/ Review Petitioners which would warrant condonation of delay of such a huge nature, **2365 days** to be precise.

10. The precise reasons urged by the Applicants/ Review Petitioners in this application are mostly related to delay in examination of the files/ record by the Department in consultation with the General Administration Department (GAD) and the Law Department of the Government of Jammu & Kashmir on the subject.

11. Although, there can be no quarrel with the proposition that a liberal approach has to be adopted in the matter of condonation of delay when there is no gross negligence or deliberate inaction or lack of *bona fides* on the part of the State/ Government functionaries, but, in the instant case, the Applicants/ Review Petitioners took their own time to formulate an opinion that the Review Petition has to be filed. It has, nowhere, been stated that they were, at all, prevented earlier to take such a decision. It was incumbent upon the Applicants/ Review Petitioners to do so for bringing home the argument that they did not adopt dilatory tactics and that every action taken had the semblance of fairness attached to it.

12. In this behalf, the law laid down by the Hon'ble Supreme Court in **“Union of India & Ors. V. Nripen Sarma, AIR 2011 SC 1237”** enunciates the aforesaid principle and it lays down as follows:

“..... 3/ This appeal emanates from the judgement of the Division Bench of the Guahati High Court (High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh) in Misc. Case No. 1569 of 2007 in W.A.No. 72020 of 2006. The

appeal filed by the Union of India was dismissed by the High Court because of inordinate delay of 239 days. The Division Bench of the High Court, while dismissing the appeal, has observed as under:

“We have gone through the contents of the petition. The delay occurred because of the respondents took their own sweet time to reach the conclusion whether the judgement should be appealed or not. It is not that they were prevented by any reason which is beyond their control to take such a decision in time. Even otherwise, on merits of the case also it does not appear to have any tenable ground of appeal. In the circumstances, we do not see any merits in this petition.”

4/ We have also gone through the condonation of delay application which was filed in the High Court. In our considered view, the High Court was fully justified in dismissing the appeal on the ground of delay because no sufficient cause was shown for condoning the delay.

.....

6/ The Union of India ought to have been careful particularly in filing this Civil Appeal because the Division Bench, by the impugned order, has dismissed the appeal before it on the ground of delay. It is a matter of deep anguish and distress that majority of the matters filed by the Union of India are hopelessly barred by limitation and no satisfactory explanations exist for condoning inordinate delay in filing those cases.”

13. Again, in **“Esha Bhattacharjee V. Mg. Commit of Raghunathpur Nafar, (2013) 12 SCC 649”**, the Hon’ble Supreme Court, observed as under:

“..... 21.2. (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.9. (ix) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

.....

21.12. (xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

.....

31. Neither leisure nor pleasure has any room while one moves an application seeking condonation of delay of almost seven years on the ground of lack of knowledge or failure of justice.”

14. Applying the ratio of law laid down above by the Hon'ble Apex Court to the facts and circumstances of the present case, it is clearly evident that the Applicants/ Review Petitioners have been negligent in prosecuting their claim within time and the explanation offered for the delay in filing the Review Petition is neither plausible nor reasonable. The application appears to have been drafted casually without giving a proper account of the dates and details of the grounds agitated in it and recourse has been had to the leisure and pleasure in moving the application.

15. The Judgments referred to and relied upon by the learned Counsel for the Applicants/ Review Petitioners, being clearly distinguishable on facts, are of no help to the case of the Applicants/ Review Petitioners.

16. For the foregoing reasons, it is found that the Applicants/ Review Petitioners have miserably failed to explain the huge delay of **2365 days**. That being so, the application for condonation of delay, in filing the Review Petition, is hereby rejected and, as a corollary thereto, the Review Petition shall also stand **dismissed** as barred by time.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

September 2nd, 2026

"TAHIR"