



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

Reserved on: 28.04.2026

Pronounced on:08.05.2026

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

Full

**RP No.01/2021 in
SWP No.1283/2017**

MANISH KUMAR BHARTI

... PETITIONER(S)

Through: - Mr. Danish Majeed, Advocate.

Vs.

UNION OF INDIA &ORS.

...RESPONDENT(S)

Through: - Mr. Hakim Aman Ali, Dy. AG

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

JUDGMENT

1) The review petitioner has filed the present petition seeking review of order dated 03.12.2020 passed by this Court whereby writ petition filed by the review petitioner bearing SWP No.1283/2017 has been dismissed on account of delay and laches.

2) It appears that the review petitioner had filed a writ petition before this Court seeking a direction upon the respondents to revisit his seniority and to determine and fix the same either at bottom of 30th Batch or at the top 31st Batch of Assistant Commandants in CRPF.



3) According to the petitioner, in the year 1997, he had appeared in the competitive examination held by the respondents for making selection to the post of CPO (Assistant Commandant). He came to be selected in 30th batch of CPOs-1996 but his appointment order was delayed by the department as it could not obtain verification/ antecedent report from the relevant authorities belatedly, as a consequence whereof, the petitioner could not undergo the requisite training with the 30th Batch. It was submitted by the petitioner that when the police verification report was received, by that time, 30th and 31st Batches had already commenced their training and as such he was offered appointment with 32nd Batch, but due to ailment of his mother, he sought extension of six months' time to undergo the requisite training, which was acceded to by the respondents. It has been submitted that after the expiry of six months, the petitioner was asked to undergo requisite training with next batch, that is 33rd Batch. Upon successful completion of the training course, the petitioner is stated to have made a number of representations before the respondents requesting them to reckon his seniority along with his original batch-mates, namely 30th Batch, but his representations were rejected without assigning any reason.



4) In the reply filed by the respondents, an objection was raised that the writ petition is afflicted with delay and laches. It was further submitted that *inter se* seniority has been settled and that seniority of the petitioner has been fixed in accordance with Rule 8(b)(ii) of the CRPF Rules, 1955 read with DOP&P OM No.35015/2/93(D) dated 09.08.1995 and other relevant rules and orders. It was pleaded by the respondents that upon receipt of verification report of the petitioner, he was issued offer of appointment with the direction to join training along with 32nd batch which commenced from 25th February, 2000 but he failed to join the training course and requested for extension of time. It has been submitted that subsequently, the petitioner was allowed to join the training course along with 33rd batch which commenced from 14th October, 2000 and this was made subject to the condition that his seniority will be assigned as per letter dated 15th March, 2000. Accordingly, *inter se* seniority of the petitioner was fixed correctly above 33rd batch in which he had undergone his training. It has been submitted that representation of the petitioner was rejected in terms of communication dated 7th September, 2009, against which he filed writ petition before the High Court of Jharkhand at Ranchi but the same was dismissed as withdrawn, whereafter the petitioner filed the writ petition before this Court.



5) The learned Writ Court vide the order under review dismissed the writ petition filed by the petitioner, primarily, on the ground of delay and laches. According to the learned Writ Court, it was only in the year 2017 that the petitioner had laid challenge to his seniority though he had entered the department in the year 2000. The learned Writ Court has noted that during the entire period of more than seven years, *inter se* rights have crystalized which cannot be reopened after a lapse of such a long period.

6) The review petitioner has sought review of the order passed by the learned Writ Court on the grounds that inaction of the respondents to fix seniority of the petitioner properly gives rise to perpetual cause of action in his favour. It has been submitted that the petitioner had filed a writ petition before the High Court of Jharkhand at Ranchi after he received reply from the respondents on 7th September, 2009, but the said writ petition was dismissed as withdrawn with liberty to pursue a fresh writ petition. It has been contended that there is no time limit fixed for filing a writ petition, as such, it was not open to the learned Writ Court to dismiss the writ petition on the grounds of delay and laches. It has been further contended that there is an error apparent on the face of record as the learned Writ Court has recorded that the petitioner had agitated his



grievance before this Court in the year 2017, ignoring the fact that the petitioner had already filed a writ petition before the High Court of Jharkhand at Ranchi in the year 2011 itself, which came to be dismissed as withdrawn. It has been contended that the petitioner has been approaching the respondents time and again by making various representations ever since he was appointed but his representation was rejected only in the year 2009, whereafter he immediately filed a writ petition before the High Court of Jharkhand at Ranchi.

7) I have heard learned counsel for the parties and perused record of the case including the record of the Writ Court.

8) So far as legal position as regards scope of jurisdiction of this Court to review its judgments is concerned, the same is well settled. The High Court exercises its powers of review in terms of Rule 65 of the High Court Rules. As per the said Rule, an application for review can be entertained only on the grounds mentioned in Order XLVII Rule 1 of the CPC. The said provision lays down that the power of review can be exercised on the grounds when there is an error apparent on the face of the record or in a case where there is a discovery of new and important matter of evidence which, after the exercise of due diligence, was not within



the knowledge or could not be produced by the review petitioner at the time when the order under review is passed. Power of review can also be exercised for any sufficient reason. The Courts have interpreted the expression “for any sufficient reason” as a reason which is akin to the aforesaid two reasons. In no other case, the Court can exercise its power of review.

9) Turning to the facts of the present case, the ground urged by the review petitioner is that the Writ Court has committed an error which is apparent on the face of record by observing that the petitioner had approached the Court only in the year 2017 ignoring the fact that he had already approached the High Court of Jharkhand at Ranchi. It has been submitted that the Writ Court has noted the particulars of the writ petition filed before the High Court of Jharkhand at Ranchi wrongly as Nil/2017 whereas it was apparent from the order passed by the High Court of Jharkhand at Ranchi dismissing the writ petition as withdrawn that the said writ petition had been filed in the year 2011 as it was bearing WP(S) No.2280/2011. It has been submitted that it was only in the year 2009 that representation of the petitioner was rejected by the respondents which gave him cause to file a writ petition before the High Court of Jharkhand at Ranchi. Thus, there



is no delay or laches on the part of the petitioner in filing the writ petition.

10) It is true that vide communication dated 7th September, 2009, the representation made by the review petitioner before the respondents was rejected and he was informed that his seniority has been properly fixed in accordance with the provisions of Rule 8(b)(ii) of the CRPF Rules, 1955 read with DOP&P OM No.35015/2/93(D) dated 09.08.1995, whereafter he approached the High Court of Jharkhand at Ranchi by virtue of a writ petition challenging the aforesaid communication in the year 2011. The matter, However, does not rest here. If we have a look at the record of the Writ Court, it appears that it is not a case where the petitioner had come to know about fixation of his seniority only in September, 2009, when his representation was rejected but it is a case where he was in knowledge of the position of his seniority right from the day the same was fixed in terms of office order dated 24th January, 2002. This is clear from the representation addressed by the petitioner to the respondents on 6th May, 2009, copy whereof has been annexed as Annexure-A to the main writ petition. The said representation makes reference to applications dated 26.12.2022, 28.11.2003 and February, 2006, wherein similar issue had been raised



by the petitioner with the respondents. Thus, the petitioner was making frequent representations with the respondents for voicing his grievance against fixation of his seniority right from the year 2002. The question that arises for determination is whether merely making representations to the department can renew the cause of action in favour of an aggrieved litigant.

11) The law on the aforesaid aspect of the matter is very clear. Filing of representations alone would not save the period of limitation. The issue of delay and laches is an important factor in exercise of discretionary relief under Article 226 of the Constitution. When a person who is not vigilant of his rights and he acquiesces with the situation, he cannot be heard after a couple of years to challenge the impugned action of the employer.

12) The Supreme Court in the case of **State of Uttaranchal and another vs. Sri Shiv Charan Singh Bhandari and others**, (2013) 12 SCC 179, while dealing with a similar case, wherein *ad hoc* promotion conferred on junior employees was under challenge, observed as under:

“16. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held the promotional post for six years till regular promotion took place. The submission



of the learned counsel for the respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983.

13) In **C. Jacob v. Director of Geology and Mining and another**,(2008) 10 SCC 115, a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus: -

"Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim."

14) Again, in **State of Tamil Nadu vs. Seshachalam** (2007) 10 SCC 137, the Supreme Court observed as under:

"... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a Court of law to determine the question as to whether



the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

15) From the foregoing analysis of the legal position, it is clear that the representations relating to matters which have become stale or barred by limitation cannot cure the delay and laches in filing the writ petition. Making of repeated representations is not a satisfactory explanation of delay.

16) In the present case, the review petitioner, as is discernible from the record, was aware about his seniority position in the year 2002 itself and he continued to make representations with the respondents right from the said year. Merely because his representation was responded to by the respondents in the year 2009 would not give a fresh cause to the petitioner to file the writ petition. Therefore, even if the petitioner had approached the High Court of Jharkhand at Ranchi in the year 2011, which is about nine years after his seniority was fixed, still then his resort to the writ jurisdiction was grossly belated.

17) A Writ Court cannot brush aside delay and laches lightly, particularly when, during the interregnum, the



situation has changed and the rights have been crystalized to the prejudice of the litigant approaching the Court belatedly. In the present case, by the time the review petitioner approached the Court, the rights of the officers, whose seniority had been fixed above him, had already been crystalized and the petitioner without impleading such officers as parties to the writ petition could not have taken a belated resort to the writ jurisdiction of the Court. Therefore, the learned Writ Court has rightly refused to exercise its discretionary jurisdiction under Article 226 of the Constitution in favour of the review petitioner.

18) For the foregoing reasons, I do not find any error, much less an error apparent on the face of the record of the order sought to be reviewed that would persuade this Court to take recall the order passed by the learned Writ Court. The review petition is dismissed being bereft of any merit.

(Sanjay Dhar)
Judge

Srinagar,
08.05.2026
"Bhat Altaf-Secretary"

Whether the **judgement** is reportable: **Yes/No**