



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

CM No. 8/2025 in
RP No 01/2025

Reserved on: 04.05.2026
Pronounced on: 14.05.2026
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Whether the operative part or full
judgment is pronounced: *FULL*

Mohammad Yousuf Allie (Age 62 years)
S/o Gh. Ahmad Allie
R/o Rakshilvat, Tehsil Sonawari ...Petitioner(s)/Appellant(s)
District Baramulla, J&K

Through: Mr. A. Haqani, Sr. Adv. with
Mr. Asif Wani, Adv.

Vs.

1. High Court of JK and Ladakh through
its Registrar General, Srinagar, J&K. ...Respondent(s)
2. Government of Jammu and Kashmir
through Secretary to Government,
Department of Law, Justice & Parliamentary
Affairs, Judicial Administration Section,
Civil Secretariat, Jammu/Srinagar

Through: Mr. M. I. Qadiri, Sr. Adv. for R-1
Mr. Fahim Shah, GA for R-2

CORAM:

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

J U D G M E N T

Per Sanjeev Kumar:-J

1. This is an application seeking condonation of delay of 502 days in filing an application seeking review of the judgment dated 18th of July 2023 passed by a Division Bench of this Court in WP (C) No. 1221/2021 titled Mohammad Yousuf Allie vs. High Court of Jammu and Kashmir & Anr. The huge delay of more than 500 days in filing a review petition is sought to be explained by pleading that the judgment dated 18th of July 2023, which is



sought to be reviewed, was initially challenged before the Hon'ble Supreme Court by filing an SLP, which was dismissed by the Hon'ble Supreme Court on 5th of January 2024.

2. Being dissatisfied with the dismissal of the SLP, the review petitioner filed a review petition before the Hon'ble Supreme Court, which was registered as Review Petition (Civil) No. 1253/2024. The Hon'ble Supreme Court dismissed the review petition aforesaid vide its order dated 24th of July 2024.

3. It is submitted that after the dismissal of the review petition on 24th of July 2024, the petitioner looked for an appropriate legal advice for working out a remedy against the judgment sought to be reviewed. It took him few months to get good advice and file the review petition, which was filed on 31st of December 2024. The condonation of delay application is contested by the respondents, who, in their objections have taken a plea that the petitioner has failed to give any cogent or sufficient reason to explain a delay of more than 500 days. It is submitted that the petitioner was pursuing the remedies before the Supreme Court, and it was only after he failed to get any relief from the Supreme Court, he decided to seek the review of the judgment, which had attained finality with the dismissal of SLP and the review petition by the Hon'ble Supreme Court. It is further pleaded by respondents that even after the dismissal of review petition by the Supreme Court, the petitioner took more than five months to file the review petition.

4. Having heard the learned counsel for the parties and perused the material on record, we are of the considered opinion that the petitioner has miserably failed to demonstrate any cause, muchless a sufficient cause,



which prevented him from filing the review petition within the period of limitation. There is huge delay of 502 days which has remained unexplained.

5. It is true that initially the judgment passed by this court which is now sought to be reviewed, was challenged before the Hon'ble Supreme Court in SLP No. 24504/2023, which was dismissed by the Hon'ble Supreme Court on 5th of January 2024 by passing the following order:

“We see no reason to interfere with the impugned order.

The Special Leave Petition is, accordingly, dismissed.”

6. The petitioner did not relent, and instead of accepting his fate, filed a review petition before the Hon'ble Supreme Court, which too came to be dismissed by the Hon'ble Supreme Court vide its order dated 24th of July 2024. For complete five months, the petitioner did nothing and probably had reconciled with his fate.

7. However, belatedly it occurred to him that there is still one remedy which can be invoked and this is how he decided to file a review petition, and which was filed in the Registry of this court on 31st of December 2024. There is absolutely no good reason given by the petitioner to explain these five months, except that consultation with the lawyer was going on. Needless to say that in the instant case, the petitioner had invoked all possible remedies available to him, including filing of SLP and the review petition before the Supreme Court, and all this had been done by the petitioner through his advocates and upon legal advice. It is, therefore, not acceptable that after the dismissal of his SLP and review petition by the Supreme Court, it took him five months to take a decision with regard to filing of the review petition before this Court.



8. That apart, the petitioner could not point out anything shockingly erroneous in the judgment sought to be reviewed, which may have persuaded us to construe the delay liberally.

9. We have gone through the judgment sought to be reviewed and are of the view that the judgment passed is in consonance with law and does not suffer from any error apparent on the face of record.

10. The petitioner was selected in the J&K Judicial Services as Munsiff, (Judicial Magistrate) 1st Class in the year 2000 under RBA Category. He got this benefit of reservation on the basis of an RBA Certificate purportedly issued by the competent revenue authority. One Riyaz Ahmad Gadda challenged the selection of the petitioner in SWP No. 1724/1999, *inter alia* on the ground that the petitioner was not a resident of Rakhsahilvat, and therefore, was not entitled to the benefit of reservation earmarked for residents of backward areas. There was another petition filed by one Javed Ahmad, i.e., SWP No. 973/2000 on the similar grounds.

11. The learned Single Judge of this court who was seized of the petitions passed an interim order on 11th of August 2003, directing the Registrar Vigilance of this court to conduct an enquiry and give its report. The Registrar Vigilance conducted the inquiry in terms of aforesaid interim order and concluded that the petitioner had secured a place in the J&K Judicial Service on the basis of a fabricated RBA certificate. The petition was finally disposed of by the learned Single Judge on 6th of June 2008.

12. An LPA preferred by the petitioner against the judgment of learned Single Judge was partially allowed, and the judgment of Single Judge was modified. The Deputy Commissioner, Bandipora was directed to conduct an



enquiry into the genuineness of the RBA certificate in terms of SRO 126 of 1994. The direction given by the learned Single Judge to Registrar Vigilance to conduct an enquiry in this regard was virtually set aside. Be that as it may, the report of the Registrar Vigilance was taken cognizance of by the High Court on the administrative side and placing *prima facie* reliance thereon, the High Court suspended the petitioner from service. Be that as it may, the petitioner did not accept even the order of the Division Bench directing the Deputy Commissioner Bandipora to conduct an enquiry in place of Registrar Vigilance and took the matter before the Supreme Court by way of SLP No. 13751-13752/2016 titled Mohammad Yousuf Allai vs Javed Ahmad Geelani and Ors. Initially, the Apex Court stayed the impugned judgment passed by the Division Bench, but later on, modified it and directed the Deputy Commissioner, Bandipora to complete its enquiry into the genuineness of the RBA certificate and submit a report to it.

13. While the SLP against the Division Bench judgment was pending, the enquiry was completed by the Deputy Commissioner, Bandipora and a report dated 30.01.2018 was submitted to the Supreme Court, in which the Deputy Commissioner, had concluded that the RBA certificate relied upon by the petitioner to secure appointment as Munsiff was fake and not issued by his office. Apprehending that on the basis of this report, his SLP would be dismissed on merits, the petitioner approached the Divisional Commissioner, Kashmir by way of a review petition, who referred the review petition to the Deputy Commissioner, Bandipora to review its order dated 30.01.2018. The Deputy Commissioner, Bandipora conducted fresh proceedings and prepared a 3rd report dated 7th of July 2018, wherein he



absolved the petitioner completely and held the RBA certificate possessed by him to be valid.

14. After obtaining this favourable report from the Deputy Commissioner, the petitioner very cleverly withdrew his SLP stating that the same had been rendered infructuous. The SLP was dismissed as infructuous by the Hon'ble Supreme Court vide order dated 13th of July 2021.

15. Based upon the report prepared by the Deputy Commissioner holding the certificate possessed by the petitioner as fabricated one, the Full Court recommended the termination of services of the petitioner to the Government vide its Communication dated 25th of August 2021. The recommendations were accepted by the Government and vide Government Order dated 10th of September 2021, the petitioner was terminated from service. The petitioner challenged this termination order by way of WP(C) 1221/2021, wherein a strong reliance was placed on the third report submitted by the Deputy Commissioner on the directions of the Divisional Commissioner to contend before this Court that ultimately his RBA certificate had been found to be valid and, therefore, there was no good ground or justification to terminate his services.

16. The issue was considered by the Division Bench at length and it was concluded that the Divisional Commissioner before whom a review petition had been filed by the petitioner had no authority to delegate its powers of review to the Deputy Commissioner for adjudication and, therefore, the third report favourable to the petitioner was prepared by the Deputy Commissioner without any authority of law and was of no consequence.



17. The Division Bench also adverted to provisions of Rule 31 and 32 and turned down the similar contention as is raised by Mr. Haqani before us to the extent that the reviewing/revisional authority is competent to pass such orders as it deems fit and such orders would include the orders passed by the reviewing/revisional authority to the subordinate authority to conduct a fact-finding inquiry. Much emphasis was laid by Mr. Haqani on the provisions of Rule 31 and 32. We are not reproducing Rule 31 & 32 of the J&K Reservation Rules, 2005 for the reason that the same have been elaborately reproduced in para 19 and 20 of the judgment sought to be reviewed.

18. From reading of Rule 31, It is abundantly clear that the order passed by the Deputy Commissioner is appealable before the Divisional Commissioner. However, the review and revisional power is given to the appellate authority which can be exercised by it suo-moto or on an application made by the party aggrieved. The power of review and revision is restricted to calling for record of the proceedings taken or order so made by an authorized officer under the rules. For the purposes of satisfying itself as to the legality or propriety of such proceedings or orders, the power to pass such orders as the revisional authority deems fit is given only in reference to the proceedings of which the record is summoned by the revisional authority. Although in Rule 32, the expression used is “review/revision”, yet from reading of Rule 32, it clearly transpires that the appellate authority under the rules is conferred only a power of revision.

19. In the instant case, the Divisional Commissioner could have only called for the records of the proceedings undertaken by the Deputy Commissioner or the order, if any, passed by him with a view to satisfying itself as to the legality or propriety of such proceedings or order. The power



given to the appellate authority is statutory in nature and cannot be further delegated to any authority. We are, however, not in disagreement with learned counsel for the petitioner that with a view to satisfying itself about the legality and propriety of any proceedings or order, the revisional authority may send for a report from the subordinate officers. However, in the instant case, as is found by the Division Bench, the review petition was straightway transferred and assigned to the Deputy Commissioner for passing appropriate orders after holding fresh inquiry. The Deputy Commissioner conducted a new enquiry which was contrary to the two reports already submitted by him, one of which was submitted before the Hon'ble Supreme Court and, accordingly, disposed of the review petition. We could understand if the Deputy Commissioner would have submitted the report to the Divisional Commissioner and the Divisional Commissioner would have taken a decision thereupon after affording an opportunity of being heard to all the stakeholders.

20. It is correctly found by the Division Bench that the Divisional Commissioner who was an appellate authority against the orders passed by the Deputy Commissioner abdicated its statutory duty and allowed the Deputy Commissioner to decide the review petition which was filed before him and which ought to have been decided by him. The contention of learned counsel to the contrary has been rightly dealt with and rejected by the Division Bench and, therefore, it cannot be said that the decision of the Division Bench suffers from an error apparent on face of record. Besides the appellant has already tested the legality of the judgment of the Division Bench sought to be reviewed before the Hon'ble Supreme Court. The Supreme Court has found no good reasons to interfere with the judgment and



has dismissed the SLP. Even the review petition filed by the petitioner also stands dismissed.

21. Viewed in this context, we are not inclined to condone the delay and reopen a well-reasoned judgment passed by a Division Bench of this Court and which stands upheld by the Hon'ble Supreme Court with the dismissal of the SLP. We are not disputing the proposition of law put forth by Mr. Haqani that the dismissal of SLP without assigning reasons does not result into merger of the judgment of the High Court in the order/judgment passed in the SLP. In appropriate cases, the review petition against of the judgment of the High Court would be maintainable notwithstanding that an SLP against the said judgment has been dismissed by the Hon'ble Supreme Court *in limini* without assigning any reasons. Nor there can be any quarrel with the proposition that a judgment passed by this Court which suffers from a gross error apparent on the face of record can be reviewed/recalled to do substantial justice.

22. However, having regard to the facts and circumstances of the case and the two rounds of litigation pursued by the petitioner upto the level of Supreme Court without any success, we do not find it a fit case for condoning the delay.

23. The application for condoning the delay is dismissed. Consequently, review petition also stands dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
14.05.2026
Altaf

Whether approved for reporting? Yes