

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

Jammu Matters

CCP(D) No.34/2024 in
WP(C) No.1546/2021
c/w
RP No.70/2024
CCP(D) No.36/2024
CCP(D) No.48/2024

Srinagar Matters

CCP(D) No.38/2024
c/w
CCP(D) Nos.45, 46/2024,
47/2024, 48/2024, 49/2024,
50/2024, 51/2024, 52/2024 &
73/2024

Bilal Ahmed Bhat and others

....Petitioner(s)/Appellant(s)

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate.
Mr. Rahul Pant, Sr. Advocate with
Mr. Anirudh Sharma, Advocate.
Mr. Syed Faisal Qadri, Sr. Advocate with
Mr. Faizan Farooq, Advocate, and;
Mr. Jahangir Iqbal Ganie, Sr. Advocate with
Ms. Mehnaz, Advocate (Through Virtual Mode).

V/s

Chandraker Bharti, Principal Secretary to
Govt. and ors.

....Respondent(s)

Through :- Ms. Monika Kohli, Sr. AAG.
Mr. Mohsin S. Qadri, Sr. AAG with
Mr. Faheem Nissar Shah, GA (Through Virtual
Mode).

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER

24.03.2025

Tashi Rabstan, CJ:

CM No. 5664/2024 in RP No. 70/2024 (Delay condonation application)

1. Instant application has been filed by the applicants-UT seeking
condonation of delay of 240 days in filing the accompanying review petition

against the judgment dated 24.11.2023 passed by this Court in the LPASW No. 144/2017 titled “*Manmohan Khajuria and ors. vs. Sheikh Muzaffar Ahmad and ors*”.

2. It is averred in the application that the delay occasioned in filing the review petition is because the authorities took time, which was required to decide as to whether the order be appealed against or not and in this process some time got consumed and thereafter the petitioner approached the authorities, who in consultation with Law Department opined that a review petition should be filed. It is contended that the review petitioner immediately applied for obtaining certified copy and as soon as the order was obtained, further process was initiated and the order and the record of the case including other record was examined. It is further contended that the matter remained under active consideration of the Administrative Department and finally it was decided to avail remedy of review and the matter was referred to the Law Department for opinion/sanction to the filing of the review petition. It is contended that after scrutinizing the record of the case and also after examining the order, the Law Department finally accorded sanction to the filing of the appeal vide Government letter dated 13.02.2024 in the name of Mrs. Monika Kohli, Sr. Additional Advocate General, who prepared the review petition but in the mean time mother of the Sr. AAG expired and she was busy in final rituals due to which the review petition remained pending. Lastly, it is contended that after joining the office, Mrs. Monika Kohli, Sr.AAG sent the review petition to the concerned authority and the same was received after vetting through law and seal and signature of OIC for filing the same.

3. Objections to this condonation of delay application have not been filed by the respondents, however, Mr. Abhinav Sharma, learned senior counsel and Mr. Rahul Pant, learned senior counsel have jointly submitted at the Bar that there is no need to file objections and they are ready to argue the matters in absence of the same. Their statement is taken on record.

4. In support of the case, learned counsel for the applicants have submitted that the delay caused in this review petition is neither intentional nor deliberate but incidental as the delay is caused on account of the departmental procedures involved in for filing the petition. It is also submitted that matters relating to the Government are required to be considered at various levels and then only a decision is taken to file the petition. The process of referring the particular file from one department to another is time consuming and decisions have to be taken collectively and hence, the delay deserves to be condoned.

5. On the other hand, learned counsel for the respondents have shown strong reservations in case the delay is condoned and submitted that delay caused in approaching the court is huge, unexplained and the reasons given for delay are nothing but charade.

6. Heard learned counsel for the parties.

7. The averments made in the application clearly reveals that the applicants/petitioners were not serious in filing the petition as the sanction for filing the review petition has been granted by the Law Department on 13.02.2024, but the applicants took about 6 months for filing the petition, i.e. on 21.08.2024. Also, the judgment has been passed after hearing learned counsel for both the parties and not in absence of learned counsel for the respondents/petitioners herein, but the petitioners have not bothered to file the

review petition in due time. The petitioners-UT, for instance, have given reasons which only show that they have proceeded in the matter in a perfunctory manner and excessively adhered to the formalities. No cogent and plausible grounds have been taken in the application which would entail delay in filing the petition and the application has been drafted in a very casual and vague manner.

8. It is trite that delay in filing review petition after the statutory period of limitation prescribed cannot be condoned as a matter of course. The party seeking condonation of delay was required to satisfy the Court that there was sufficient cause justifying condonation of delay. Merely saying that the delay was on account of procedural aspect is not a sufficient cause to condone the delay.

9. Hon'ble the Supreme Court while dismissing *SLP (Civil) Diary No(s).19846/2020* titled as *Union of India Vs. Central Tibetan Schools Admin & Ors.*, on 04.02.2021 on account of delay observed as under:-

“We have repeatedly being counselling through our orders various Government departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the legal department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect

and that the present matter should have been brought up, really takes the cake!

The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No. 22605/2020 decided on 11.01.2021].....”.

10. Having regard to above referred judgment, it suggests that the applicants-UT has perceived delay as a non serious matter and its lackadaisical tendency is exhibited by its nonchalant manner in which the petitioners have pursued the matter and allowed the file to move from table to table for months together.

11. In view of the facts and circumstances of the case, observations made hereinabove and the settled law position; we are not satisfied with the explanation given by the applicants/UT for condoning the delay. The application seeking condonation of delay is dismissed.

12. As a result thereof, the accompanying review petition i.e. RP No. 70/2024 is also rejected.
13. List the contempt petitions on 15.04.2025.
14. Copy of this order be placed on the files of connected petitions.

Jammu:
24.03.2025
Raj Kumar

(Puneet Gupta)
Judge

(Tashi Rabstan)
Chief Justice