IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR

(Appellate Jurisdiction)

PRESENT:

RAZA ALI KHAN, J

CIVIL PLA No. 515 OF 2025

(Against the judgment dated 21.02.2025, passed by the Service Tribunal in service appeal No. 204 of 2022).

Jamila Parveen alias Jamila Anwar Saeed, Headmistress Government Girls High School Sangarh Bathara, Tehsil Dhirkot, District Bagh.

…Petitioner(s)

VERSUS

Azad Government of the State of Jammu and Kashmir and others.

…Respondent(s)

Appearances:

For the Petitioner(s):	Syed Asim Masood Gillani, Advocate.
For the respondent(s):	Nemo.
Date of hearing:	01.12.2025.

JUDGMENT:

***Raza Ali Khan, J*:-** This petition arises from the judgment of the Service Tribunal dated February 21, 2025, whereby the petitioner's appeal was dismissed for having been filed beyond the prescribed period of limitation.

2. The appellant, a permanent officer of the Education Department serving as Headmistress, entered service in 1983 and was placed on deputation in 2006 to Rawalpindi/Islamabad pursuant to successive No Objection Certificates, following her request for transfer due to widowhood and the education of her children. She challenged her removal under the impugned notification dated September 24, 2019, purportedly under Rule 113 of the Kashmir Service Regulations, which had ceaed to have legal effect after May 12, 2006, alleging absence of inquiry, notice, or opportunity of hearing and asserting that the order contravened law, departmental rules, and binding judicial precedent. The respondents field written statement and contended that deputation is statutorily limited to five years, extendable by one year, and that the petitioner's failure to return to her parent department for over fifteen years rendered her removal lawful. Upon conclusion of proceedings, the Service Tribunal dismissed the appeal on February 21, 2025, holding that the same was preferred beyond the prescribed period of limitation.

3. The learned counsel for the petitioner submitted that the Service Tribunal erred in dismissing the appeal, as the impugned order dated September 24, 2019, was issued by officials lacking of lawful authority and in breach of mandatory procedures under Section 4

of the AJ&K Service Tribunal Act. He further argued that the Tribunal wrongly held the appeal time-barred, disregarding that the order had never been officially communicated, whereas, the ninety-day limitation commences from the date of communication not the date of issuance. It was further contended that the AJ&K Civil Servants (Efficiency & Discipline) Rules, 1977, mandate framing of charges, issuance of show-cause notices, and conducting inquiries prior to imposing penalties under Rule 8, none of which were observed, rendering the order unlawful. He further argued that the reliance on Rule 113 of the Kashmir Service Regulations was misconceived as the said provision stood repealed and could not confer jurisdiction. The allegation of absence from duty since May 12, 2006, was described as factually incorrect, the petitioner having remained on deputation with salary drawn until 2020, thereby demonstrating that no major penalty could lawfully be imposed without compliance with Section 15 of the AJ&K Civil Servants Act and the Efficiency & Discipline Rules. Consequently, it was argued that the impugned order is void ab initio, and the Tribunal's judgment, having failed to address these legal infirmities, is liable to be set aside. Counsel prayed for grant of leave.

4. I have heard counsel for the petitioner and carefully examined the record of the case made available. The learned Registrar of this Court has noted that the present Petition for Leave to Appeal (PLA) was filed on July 30, 2025, exceeding the prescribed period of limitation by ninety-nine days. I therefore, deem it

appropriate to address this aspect first. In paragraph 11 of the PLA memo, the petitioner claims to have travelled abroad and returned to Pakistan on March 15, 2025. During her stay abroad, she asserts that she suffered severe illness, spent considerable time hospitalized and was thereby unable to contact her legal counsel, remaining unaware of the impugned judgment until June 20, 2025.

5. Be that as it may, it is a settled principle of law that the delay in filing a petition, whether short or protracted must be satisfactorily explained. The petitioner asserts that her absence abroad prevented timely action. However, the judgment of the Service Tribunal was pronounced on February 21, 2025, nearly twenty-five days prior to her return, a period during which she could reasonably have arranged legal assistance. Instead, she remained inactive until June 20, 2025, when she became aware of the judgment, and ultimately filed the petition only on July 30, 2025, approximately four months after her return demonstrating lack of diligence and disregard of the statutory timelines. Even accepting the petitioner's claim of illness, she could have engaged new counsel, or the counsel who had represented her before the Service Tribunal, to safeguard her rights. Her inaction indicates an absence of *bona fide* effort, further underscored by the fact that the impugned order was issued on September 24, 2019, yet she filed her appeal before the Service Tribunal only on April 16, 2022, a delay of nearly three years independently barred by limitation.

6. Even assuming, for the sake of argument, that the delay in filing the present PLA could be condoned, the fundamental issue remains that her original appeal before the Service Tribunal was itself hopelessly time barred, having been filed almost three years after the impugned order. In such circumstances, the petitioner cannot rely on mere explanations of illness or absence to circumvent the statutory timelines prescribed by law. The principles of law are unambiguous: the limitation period is a statutory condition precedent for the exercise of jurisdiction, and courts are bound to enforce such provisions strictly. It is a well-settled proposition that judicial sympathy cannot supplant for statutory mandates. The record reflects inaction and negligence on the part of the petitioner, which cannot be excused, as the Courts are duty-bound to administer justice in accordance with law, rather than equitable inclination.

In view of the foregoing, leave to appeal is refused on ground of limitation. Consequently, the petition for leave to appeal stands dismissed.

JUDGE

Muzaffarabad,
01.12.2025.

Approved for Reporting.