



2025:UHC:10847-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL THE HON'BLE
CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

5TH DECEMBER, 2025

SPECIAL APPEAL NO.297 OF 2025

State of Uttarakhand and Others Appellant

Vs.

Sampat Singh Negi and Others Respondents

And

SPECIAL APPEAL NO.298 OF 2025

State of Uttarakhand and Others Appellant

Vs.

Pushpa Joshi and Others Respondents

Present:-

Mr. C.S. Rawat, learned C.S.C. along with Mr. S.S. Chaudhary, learned Standing Counsel for the State of Uttarakhand/ Appellants.
Mr. B.M. Pingal, learned counsel for the private respondents.
Mr. I.D. Paliwal, learned Standing Counsel for the State of U.P.

JUDGMENT:(per Mr. G. Narendar C.J.)

Heard the learned CSC and the learned counsel for the private respondents Sri B.M. Pingal in SPA No. 297/2025 and SPA No. 298/2025, and learned Standing Counsel for the State of U.P.

2. Perused the grounds taken in support of the delay condonation application Nos.IA/1/2025. Being satisfied by the cause shown, the delay condonation applications are allowed and the delay of 224 days in filing both the special appeals is condoned.



3. The short point canvassed in this batch of appeals by the State, is the eligibility of the Petitioner to independently agitate a consequential relief independent of the main relief? The matter was listed on several occasions, and the judgment of the Coordinate Bench, rendered on 18.03.2025 in Special Appeal No. 81/2023 "Harish Chandra Tiwari v. State of Uttarakhand and Others" was put to learned counsel for the private respondents. Learned counsel for the private respondents had sought time on the ground that he would produce certain rulings, which contradict the findings rendered by us in a related matter. Despite grant of several opportunities, no such rulings or citation has been placed before this Court.

4. Learned counsel for the respondents would further submit that the State of Uttar Pradesh the official respondent, has accepted its liability up to the year of creation of the State of Uttarakhand, and that it was the State of Uttarakhand that is denying its liability; and that the State of Uttar Pradesh has also called upon the State of Uttarakhand to forward the records for the purposes of calculating their liability.

5. Be that as it may, the learned CSC would contend that the question of the State of Uttarakhand being bound by the stand of the State of Uttar Pradesh does not arise; that the State of Uttarakhand has independently agitated the matter, and is in Appeal, and the State of Uttarakhand has successfully canvassed its stand in Special Appeal No. 81/2023 in the case of "Harish



Chandra Tiwari v. State of Uttarakhand and Others"; that the facts and circumstances involved in the present batch of Writ Petitions are identical, and the private respondents are also similarly placed, as the appellant in Special Appeal No. 81/2023.

6. The judgment in Special Appeal No.81/23 reads as under:-

"The petitioner is before this Court, being aggrieved by the order of the Uttarakhand Public Services Tribunal, whereby the Tribunal was pleased to dismiss the claim petition.

2. *Learned Senior Counsel for respondent nos.3, 4, 5 & 7 would fairly submit that marginal delay of 74 days in filing the Appeal may be condoned.*

3. *The submission is taken on record.*

4. *IA No.2 of 2023 is allowed. Delay of 74 days in filing the Appeal stands condoned.*

5. *The appellant is before this Court in an intra-court appeal being aggrieved by the order dated 21.12.2022 passed by the learned Single Judge, whereby the learned Single Judge was pleased to reject the writ petition.*

6. *The facts are not in dispute. The facts in a nutshell, are that petitioners were employees of a Co-operative Sugar Mill and the Management floated a V.R.S. Scheme and the petitioners accepted the offer under the Scheme and the petitioners stood retired w.e.f. 31.10.2015 i.e. the employer and employee relationship came to be terminated as on 31.10.2015. Subsequently, after more than a year, the Government issued an order, revising pay scales to the employees of the Sugar Mills, including the Sugar Mill in which the petitioners had been rendering service. Upon the issuance of the proceedings, the petitioners approached the employers, who appear to have rejected their claim. Aggrieved, they moved Writ Petition (S/S) No.85 of 2018, which came to be allowed vide judgment dated 03.03.2021. The Managing Director of the Uttarakhand Cooperative Sugar Mills Association Limited was directed to give benefit of the Government Order dated 29.12.2016, under which pay scales came to be revised. The Sugar Mills preferred an Appeal and the Division Bench, after appreciating the Appeal, was*



pleased to reject the same. Thereafter, the dues as per 29.12.2016 order, came to be calculated and paid in 2022.

7. *It is the case of the appellants/petitioners that they are entitled to interest over the period, from December, 2016 till payment in 2022.*

8. *It is not in dispute that the claim for dues came to be adjudicated by a Court of law. The claims came to be allowed in 2021 and the dues were cleared shortly thereafter. The learned Single Judge has recorded that the claimants/petitioners, who setup the claim for arrears, have not pleaded for payment of interest in the earlier round of litigation, which was consequential, and they, having not pleaded and prayed for payment of interest, are estopped from making a claim belatedly.*

9. *The Constitution Bench of the Hon'ble Apex Court in **Daryao & Others Vs. State of U.P. and Others** had the opportunity to determine whether the principles of res-judicata applies to Writ Petitions, the relevant para of the judgment reads as under:-*

"The same question can be considered from another point of view. If a judgment has been pronounced by a court of competent jurisdiction it is binding between the parties unless it is reversed or modified by appeal, revision or other procedure prescribed by law. Therefore, if a judgment has been pronounced by the High Court in a writ petition filed by a party rejecting his prayer for the issue of an appropriate writ on the ground either that he had no fundamental right as pleaded by him or there has been no contravention of the right proved or that the contravention is justified by the Constitution itself, it must remain binding between the parties unless it is attacked by adopting the procedure prescribed by the Constitution itself. The binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the administration of justice on which the Constitution lays so much emphasis. As Halsbury has observed "subject to appeal and to being amended or set aside a judgment is conclusive as between the parties and their privies, and is conclusive evidence against all the world of its existence, date and legal consequences". Similar is the statement of the law in Corpus Juris: "the doctrine of estoppel by judgment does not rest on any superior authority of the court rendering the judgment, and a judgment of one court is a bar to an action between the same parties for the same cause in the same court or in another



court, whether the latter has concurrent or other jurisdiction. This rule is subject to the Limitation that the judgment in the former action must have been rendered by a court or tribunal of competent jurisdiction". "It is, however' essential that there should have been a judicial determination of rights in controversy with a final decision thereon".In other words, an original petition for a writ under Art. 32 cannot take the place of an appeal against the order passed by the High Court in the petition filed before it under Art. 226. There can be little doubt that the jurisdiction of this Court to entertain applications under Art. 32 which are original cannot be confused or mistaken or used for the appellate jurisdiction of this Court which alone can be invoked for correcting errors in the decisions of High Courts pronounced in writ petitions under Art. 226. Thus, on general considerations of public policy there seems to be no reason why the rule of res judicata should be treated as inadmissible or irrelevant in dealing with petitions filed under Art. 32 of the Constitution. It is true that the general rule can be invoked only in cases where a dispute between the parties has been referred to a court of competent jurisdiction, there has been a contest between the parties before the court, a fair opportunity has been given to both of them to prove their case, and at the end the court has pronounced its judgment or decision. Such a decision pronounced by a court of competent jurisdiction is binding between the parties unless it is modified or reversed by adopting a procedure prescribed by the Constitution. In our opinion, therefore, the plea that the general rule of res judicata should not be allowed to be invoked cannot be sustained."

10. In **Direct Recruit Class II Engineering Officers' Assn. V. State of Maharashtra (1990) 2 SCC 715**, anotherConstitution Bench of Hon'ble the Apex Court observed as follows:-

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The decision in Forward Construction Co. v. PrabhatMandal (Regd.), Andheri, further clarified the position by holding that an adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had decided as incidental to or essentially connected with subject matter of the litigation and every matter coming into the legitimate purview of the original action both in respect of the matters of



claim and defence. Thus, the principle of constructive res judicata underlying Explanation IV of Section 11 of the Code of Civil Procedure was applied to writ case. We, accordingly hold that the writ case is fit to be dismissed on the ground of res judicata.

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(k) That a dispute raised by an application under article 32 of the Constitution must be held to be barred by principles of res judicata including the rule of constructive res judicata if the same has been earlier decided by a competent court by a judgment which became final.”

11. In *P. Bandopadhyaya and others vs. Union of India and another* (2019) 13 SCC 42, the Hon'ble Apex Court has held that:

“8.11.The decision in *S.V. Vasaikar&Ors. v. Union of India &Ors.*, was not challenged before the Supreme Court, and has since attained finality. Therefore, the relief sought by the Appellants before the High Court was barred by the principle of res judicata.Reference can be made to the decision of the Constitution Bench in *Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra* wherein Sharma, J., on behalf of the Five-Judge Bench, held: (SCC pp. 740-41, para 35)

“35...It is well established that the principles of res judicata are applicable to writ petitions. The relief prayed for on behalf of the petitioner in the present case is the same as he would have, in the event of his success, obtained in the earlier writ petition before the High Court. The petitioner in reply contended that since the special leave petition before this Court was dismissed in limine without giving any reason, the order cannot be relied upon for a plea of res judicata. The answer is that it is not the order of this Court dismissing the special leave petition which is being relied upon; the plea of res judicata has been pressed on the basis of the High Court's judgment which became final after the dismissal of the special leave petition. In similar situation a Constitution Bench of this Court in *Daryao v. State of UP* held that where the High Court dismisses a writ petition under Article 226 of the Constitution after hearing the matter on the merits, a subsequent petition in the Supreme Court under Article 32 on the same facts and for the same reliefs filed by the same parties will be barred by the general principle of res judicata. The binding character of judgments of courts of competent jurisdiction is in essence a part of the rule of law on which the administration of justice, so much emphasised by the Constitution, is founded and a judgment of the High Court under Article 226 passed after a hearing on the merits must bind the parties till set aside in appeal as provided by the Constitution and cannot be permitted to



2025:UHC:10847-DB

*be circumvented by a petition under Article 32...”
(emphasis supplied)*

Albeit the decision of the Constitution Bench was in the context of a Writ Petition filed under Article 32, it would apply with greater force to bar a Writ Petition filed under Article 226, like the one filed by the present Appellants, by the operation of the principle of res judicata.”

12. Even assuming, for arguments sake, that a liability was cast upon the employer under 29.12.2016 proceedings of the Government, then the present claim under WPSS No.2399 of 2022 is barred by limitation; that apart, the second writ petition, the instant proceedings, is also hit by the principles of constructive res-judicata. The relief of interest being consequential to the relief of payment of arrears, it was incumbent upon the appellants/petitioners to have sought for payment of interest in the earlier round of litigation. The claim for interest being belated and the writ petition also hit by the principles of res-judicata, we do not find any ground, which warrants interference with the well considered order of the learned Single Judge.

13. Accordingly, the Appeal stands rejected.”

7. In view of the above, and in view of the facts and circumstances and the applicable law being similar to the petition noted supra, the instant appeals also require to be allowed and are accordingly are allowed. The judgments under appeal are set aside. The writ petitions stand dismissed.

8. There shall be no order as to costs.

9. Accompanying applications if any stand closed.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated:05.12.2025

KK/SS