

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.588 of 2020

1. Brahmdeo Yadav, Son of Late Turanti Prasad Yadav, Resident of Ward No. 12, Chini Mill Colony, Banmankhi, Purnea.
2. Kaleshwar Yadav@Kaleshwar Yadav, Son of late Anup Lal Yadav, Resident of Ward No. 12 , Chini Mill Colony, Banmankhi, Purnea.
3. Pradeep Kumar Bose, Son of late Prafulla Kumar Bose, Resident of Ganguli Para, Bhatta Bazar, Purnea.
4. Ramchandra Ray, Son of late Thakur Ray, Resident of Gangaili, Ward No. 3, Maharajganj, Purnea.
5. Jay Prakash Singh, Son of late Veer Nrayan Singh, Resident of Ward No. 5, Rajput tola, Banmankhi, Purnea.
6. Dukh Haran Yadav, Son of Late Mohi Chand Yadav, Resident of Ward No. 16 , Chini Mill Colony, Banmankhi, Purnea.
7. Satya Narayan Bhagat, Son of late Shital Bhagat, Resident of Ward No. 12 , Chini Mill Colony, Banmankhi, Purnea.
8. Bhola Prasad Sharma, Son of late Kari Lal Sharma, Resident of Bhajan Patti, Chopra Ramnagar, Madhuban, Purnea.
9. Rabindra Narayan Singh, Son of late Chandra Nand Singh, Resident of Ward No. 16, Chini Mill Colony, Banmankhi, Purnea.
10. Rajendra Prasad Mandal, Son of late Domi Prasad Mandal, Resident of Ward No. 8, Kaushalpur, Morho, Mahdepura.
11. Akbar Mian, Son of late Basir Mian, Resident of Ward No. 16 , Chini Mill Colony, Banmankhi, Purnea.
12. Sahdev Thakur, Son of late Fudo Thakur, Resident of Ward No. 12 , Chini Mill Colony, Banmankhi, Purnea.
13. Siya Sharan Thakur, Son of late Triveni Thakur, Resident of Ward no. 15, Jaipal Patti, Madhepura.
14. Umesh Prasad Son of late Sheo Nandan Singh, Resident of Ward No. 14, Village Rajhat, Banmakhni, Purnea.
15. Mahadev Yadav, Son of kate Rasik Lal Yadav, Resident of ward No. 9, Sukhasan Chakla, Madhepura.
16. Mohan Mishra, Son of late Baidyanath Mishra, Resident of Ward No. 02, Villagen Babhangama, Ganeshpur, Samastipur.
17. Nityanand Singh, Son of late Lakhan Singh, Resident of Ward No. 12 , Chini Mill Colony, Banmankhi, Purnea.
18. Yogendra Prasad Singh, Son of late Chanchal Prasad, Resident of Ward No. 3, Janaki Tola, Sahugarh, Madhepura.
19. Md. Ali Hasan, Son of late Wali Ansari, Resident of Makhnanha, Harpur Madi, Purnea.
20. Jagannath Jha, Son of late Lakshmi Kant Jha, Resident of Ward No. 16 , Chini Mill Colony, Banmankhi, Purnea.
21. Tarkeshwar Tiwari, Son of late Brajnandann Tiwari, Resident of Thakurbari, Rajhat, Banmankhi, Purnea.
22. Lakshmi Narayan Sah, Son of late Nand Lal Sah, Resident of Ward No. 9, Lohia Patti, Banmankhi, Purnea.
23. Tarkeshwar Prasad, Son of late Ram Narayan Bhagat, Resident of Ward No. 8, Nehru Chowk Marg, Banmankhi, Purnea.



24. Satish Chandra Das, Son of late Anup Lal Das, Resident of Banmankhi, Purnea.
25. Ghanshyam Sah, Son of late Anup Lal Sah, Resident of Veer Kunwar Singh Chowk, Ward No. 10, Banmankhi, Purnea.
26. Shivrinarayan Mistri, Son of late Musharu Sharma, Resident of Ward No. 7, Magurjan, Purnea.
27. Harsh Chand Bhagat, Son of Shiv Narayan Gupta, Resident of Ward No. 16, Chini Mill Colony, Banmankhi, Purnea.
28. Ramashish Singh, Son of Late lalji Singh, Resident of Village Rajhat, Banmankhi, Purnea.
29. Chandra Kant Mandal, Son of late Fatuhi Mandal, Resident of Nagarahi, Ward No. 15, Dhima Purnea.
30. Mohara Uraon, Son of late Munay Uraon, Village Naya Tola Baghwa, Nipania, Purnea.
31. Pulendra Prasad Yadav, Son of Shubhujlal Yadav, Resident of Jhalighat, Chopra Ramnagar, Madhuban, Purnea.
32. Adhik lal Mandal, Son of late Baldeo Mandal, Resident of Ward No. 15, Dhima, Purnea.
33. Ram Bilash Gupta, Son of late Ram Das Gupta, Resident of Ward No. 13, Rajhat, Banmankhi, Purnea. Panchanan Sah, Son of late Jamuna Sah, Resident of Larkania Tola, Katihar.
34. Panchanan Sah, Son of late Jamuna Sah, Resident of Larkania Tola, Katihar.
35. Kamala Devi, Wife of late Visanath Prasad, Resident of J.P. Nagar, Court Station, Purnea.
36. Chandeshwari Yadav, Son of late Visheshwar Yadav, Village Bagri, Isapur, Chorhar Kharik, Bhagapur.
37. Laxmi Devi, Wife of late Bindeshwari Mahto, Resident of Ward No. 7, Baisa Tola, Alamnagar East, Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary.
2. The Principal Secretary, Department of Sugarcane Industries, Govt. of Bihar, Patna.
3. The Industrial Development Commissioner, Govt. of Bihar, Patna.
4. The Secretary-Cum-Commissioner, Department of Sugarcane Industries, Govt. of Bihar, Patna.
5. The Cane Commissioner, Department of Sugarcane Industries, Govt. of Bihar, Patna.
6. The Bihar State Sugar Corporation Limited, Arunalaya, Bailey Road, Patna.
7. The Bihar State Sugar Corporation Limited, Banmankhi Unit, through its General Manager.
8. The General Manager, Bihar State Sugar Corporation Limited, Banmankhi Unit, Purnea.
9. The District Magistrate, Purnea.

... .. Respondent/s

Appearance :

For the Petitioners	:	Ms. Anju Mishra, Advocate
For the State	:	Mr. Zaki Haider, AC to S.C.-9
For the BSSC	:	Mr. Gyan Shankar, Advocate



CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-07-2022

Heard learned counsel for the petitioners and the learned counsel appearing on behalf of the Bihar State Sugar Corporation as well as the learned counsel for the State.

2. The petitioners have approached this Court for grant of interest/statutory for delayed disbursement of arrears of salary and other service benefits as well as post retiral claims.

3. The petitioners were employees of the erstwhile Bihar State Sugar Corporation and on account of the said Corporation going into liquidation, their dues were not paid for years together.

4. The admitted position is that in view of the directions passed in CWJC No.2637 of 2016 in the case of Umesh Prasad Singh and another vs. The State of Bihar and its analogous case, the petitioner were granted their dues/arrears.

5. The grievance of the petitioners today, however, is that dues having been paid with delay, the petitioners could not be deprived of interest on the payments made. They have a right to interest since the authorities have belatedly paid the admissible dues of the petitioners.

6. Learned counsel for the respondents, on the other hand, submits that claim for monetary service benefits of the



petitioner(s), who were parties to the writ proceedings in the case of Umesh Prasad Singh (supra), was considered and payments made during pendency of the said writ application.

7. The petitioners in the said proceedings have expressed that the grievances have already been redressed; and the writ application was dismissed as infructuous on 10.07.2019 by an order which reads as follows :

“Counsel for the petitioners submits that since the grievance of the petitioners has already been redressed, both the writ applications have been rendered infructuous, as such, she wants to withdraw these applications.

Accordingly, these writ applications are dismissed as infructuous.”

8. If the petitioners had any claim to interest, they were under legal obligation to raise the same in the said proceedings. However, in the said proceedings, the petitioners’ categorical stand that their grievances have been redressed, has been recorded in the order of this Court.

9. No plea regarding interest having been raised, second writ petition would constructively be barred by the principle of *res judicata*, which are applicable to the writ proceedings in such circumstances, as per law declared by the Apex Court in paragraphs 20-24 of the judgment in the case of ***Shiv Chander***



More and Ors. Vs. Lieutenant Governor and Ors., reported in ***(2014)11 SCC 744***, which read as follows :

20. It is, therefore, evident that not only the writ petitioners but even the High Court was conscious of the repeal of the 1926 Regulations by the 1966 Regulations and the provisions of the latter Regulations permitting a fresh grant. That being so, it need not have prevented the occupants (the appellants herein) from urging before the High Court as they appear to be doing now, that the 1966 Regulations entitled them to continue in occupation regardless of whether there was a renewal of the grant in their favour and regardless of whether or not, there was a fresh grant in respect of the land. The contention now sought to be urged that the occupants can continue to occupy the land in question in perpetuity without even a renewal or without a fresh grant in their favour subject only to the condition that they did not violate the provisions of Regulation 151 was available to the occupants which could and indeed ought to have been raised by them at that stage. Inasmuch as the occupants did not urge any such point or raise any such contention in the previous round of litigation ending with the order of this Court in *Lt. Governor v. Shiv Chander More* [*Lt. Governor v. Shiv Chander More*, (2008) 4 SCC 690], they are debarred from doing so in the present proceedings on the principles of constructive res judicata. That constructive res judicata in principle applies even to writ proceedings is fairly well settled by several decisions of this Court.

21. We may briefly refer to some of those decisions which elaborate the principle and extend their application to proceedings before a writ court. But



before we do so, we need to say what is trite, namely, the doctrine of res judicata being one of the most fundamental and well-settled rules of jurisprudence. The doctrine is found in all legal systems of civilised society in the world. It is founded on a twofold logic, namely, (1) that there must be finality to adjudication by the competent court; and (2) no man should be vexed twice for the same cause. These two principles attract the doctrine of res judicata even to inter partes decisions that may be erroneous on a question of law. That the doctrine is applicable even to writ jurisdiction exercised by the superior courts in this country is settled by a Constitution Bench decision of this Court in *Amalgamated Coalfields Ltd. v. Janapada Sabha Chhindwara* [AIR 1964 SC 1013] wherein this Court observed : (AIR p. 1018, para 17)

“17. ... Therefore, there can be no doubt that the general principle of res judicata applies to writ petitions filed under Article 32 or Article 226. It is necessary to emphasise that the application of the doctrine of res judicata to the petitions filed under Article 32 does not in any way impair or affect the content of the fundamental rights guaranteed to the citizens of India. It only seeks to regulate the manner in which the said rights could be successfully asserted and vindicated in courts of law.”

22. The principles of constructive res judicata which are also a part of the very same doctrine have been held to be applicable to writ proceedings, by another Constitution Bench decision of this Court in *Devilal Modi v. STO* [AIR 1965 SC 1150] wherein this Court observed : (AIR p. 1152, para 8)

“8. It may be conceded in favour of Mr Trivedi that the rule of constructive res judicata which



is pleaded against him in the present appeal is in a sense a somewhat technical or artificial rule prescribed by the Code of Civil Procedure. This rule postulates that if a plea could have been taken by a party in a proceeding between him and his opponent, he would not be permitted to take that plea against the same party in a subsequent proceeding which is based on the same cause of action; but basically, even this view is founded on the same considerations of public policy, because if the doctrine of constructive res judicata is not applied to writ proceedings, it would be open to the party to take one proceeding after another and urge new grounds every time; and that plainly is inconsistent with considerations of public policy to which we have just referred.”

23. Reference may also be made to the Constitution Bench decision in *Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra* [(1990) 2 SCC 715 : 1990 SCC (L&S) 339 : (1990) 13 ATC 348] wherein this Court once again reiterated that the principles of constructive res judicata apply not only to what is actually adjudicated or determined in a case but every other matter which the parties might and ought to have litigated or which was incidental to or essentially connected with the subject-matter of the litigation. This Court observed : (SCC p. 741, para 35)

“35. ... 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 the 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 Civil Procedure Code was applied to writ case. We, accordingly hold that the writ case is fit to be dismissed on the ground of res judicata.”

24. It is in the light of the above authoritative decisions of this Court no longer open to the appellants to contend that the principles of constructive res judicata would not debar them from raising the question which, as observed earlier, could and indeed ought to have been raised by them in the previous round of litigation. The High Court was, in that view of the matter, perfectly justified in holding that the plea sought to be raised by the appellants in the purported exercise of liberty given to them by the orders of this Court dated 9-4-2008 in *Lt. Governor v. Shiv Chander More* [*Lt. Governor v. Shiv Chander More*, (2008) 4 SCC 690] was not legally open and should not be allowed to be urged.”

10. The writ application does not merit any direction for payment of interest to the petitioners.

11. For the aforesaid reasons, the writ petition is dismissed.

(Madhuresh Prasad, J)

PNM

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

