

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9026 of 2024

Chandra Mohan Singh Son of Sri Lalan Singh, Resident of House No. N-11/58 A-10-H, Ranipur, Police Station Bhelupur, District Varanasi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Finance Department, Old Secretariat, Patna.
3. The Chief Engineer, Water Resources Department, Biharsharif, Nalanda.
4. The Superintending Engineer, Sinchai Circle, Water Resources Department, Nawadah.
5. The Executive Engineer, Sinchai division, Water Resources Department, Nawadah.
6. The Treasury Officer, Nawadah.
7. The Accountant General (Accounts and Entitlement), Bihar, Birchand Patel Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rupak Kumar, Advocate Mr. Vikrant Kumar, Advocate
For the State	:	Mr. Additional Advocate General-13

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 12-02-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for issuance of writ in the nature of mandamus directing the respondents to pay interest on pension, gratuity, leave encashment and arrears of pay/salary to the petitioner in the wake of decisions of the Hon'ble Apex Court and of this Hon'ble Court on delayed payment of pensionary benefits.



3. Learned counsel for the petitioner submits that the petitioner had earlier moved before this Court in C.W.J.C. No. 8676 of 2018, which was allowed *vide* order dated 11.12.2018, wherein, it was held that the recovery was impermissible in the absence of any order of punishment. Accordingly, the respondent authorities were directed to make payment of the petitioner's retiral dues within a period of two months from the date of receipt/production of a copy of the said order. Counsel further submits that even after specific order passed by this Hon'ble Court, the payment has not been made to the petitioner towards retiral dues. Thereafter, the petitioner filed M.J.C petition bearing M.J.C. No. 4373 of 2019 which was disposed of *vide* order dated 19.07.2022 with liberty to the petitioner to file a writ petition for claiming the interest. Counsel submits that since, the liberty has been granted to the petitioner in the said M.J.C petition to file a writ petition for claiming the interest, therefore, it is due to this reason, the petitioner has filed the present writ petition in which only interest part has been demanded. Counsel further submits that the provision of *res judicata* shall not apply in the present case, as there was a specific liberty given by this Court in the M.J.C. petition. In addition to that, he submits that section 141 of the



Code of Civil Procedure, 1908 (Act No. 5 of 1908) is very much clear that the proceeding provided in the C.P.C does not include any proceeding under Article 226 of the Constitution of India. Therefore, he submits that the C.P.C has no role in deciding the present writ petition.

4. Learned counsel for the State, on the other hand, submits that the counter affidavit has been filed, wherein, it has been specifically stated that the petitioner is not entitled for claimed relief because he has not handed over the charge at Dumka Irrigation Division and due to that, updated service book is not available at the office of respondent no.5. It has been further stated in the counter affidavit that the respondent no.5 had made ample efforts to obtain the updated service book of the present petitioner and for that, respondent no.5 issued several letters to the officials at Brijkhorwa Irrigation Division, where the writ petitioner was in service prior to the joining at Nawada Irrigation Division. It has also been stated in the counter affidavit that the Brijkhorwa Irrigation Division informed that there was a pending charge of writ petitioner and it is also evident from the Letter No. 247 dated 11.04.2018 that Brijkhorwa Irrigation Division requested the Nawada Irrigation Division to send the writ petitioner to hand over his entire



charge so that service book of writ petitioner may be sent to the Nawada Irrigation Division. Counsel, therefore, submits that the delay in fixation of pension is attributable to the conduct of the petitioner, and the State officials are not responsible for the same. Therefore, there is no question of payment of interest to the petitioner in the present case.

5. After hearing the parties, it transpires to this Court that the prayer made in earlier writ petition filed by the petitioner in C.W.J.C. No. 8676 of 2018 is that of payment of pension, gratuity, leave encashment and statutory and panel interest over his pensionary benefits. And, the observation made by the Hon'ble Court in the said writ i.e. C.W.J.C. No. 8676 of 2018 *vide* order dated 11.12.2018, states as follows:-

“Considering the said facts, the recovery being impermissible without any punishment order, the respondent no.5, the Executive Engineer is directed to make payment of the retiral dues of the petitioner within a period of two months from the date of receipt/production of a copy of this order. Writ application is accordingly allowed.”

6. From the prayer and the relief, it transpires to this Court that the prayer of statutory and penal interest was demanded by the petitioner in the earlier writ petition bearing



C.W.J.C. No. 8676 of 2018 and from the relief portion, it appears to this Court that on said statutory interest and penal interest, there is absolutely no finding.

7. This Court hereby quotes the doctrine of *res judicata* which is described in Explanation V of the section 11 of the Code of Civil Procedure, 1908 which categorically states that “*any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.*”

8. Therefore, this Court is of the view that the relief which was demanded in the earlier writ petition on which no finding has come, has been deemed to be refused, due to the doctrine of *res judicata* in Explanation V of the section 11 of the Code of Civil Procedure, 1908.

9. It is true that, the M.J.C. petition which has been filed by the petitioner bearing M.J.C. No. 4373 of 2019 was disposed of *vide* order dated 19.07.2022 with liberty to the petitioner to file a writ petition for claiming the interest.

10. A legal question which comes before this Court that whether a relief which has not been granted by the Original Court (Writ Court here) can be granted by the M.J.C. Court (i.e. Contempt Court here in the present case)? This Court is of the



opinion that the Executing Court cannot go beyond the court who is taking the final decision.

11. So far as the contention of the petitioner that according to section 141 of the Code of Civil Procedure, 1908, the provision of C.P.C is not applicable on the applications under Article 226 of the Constitution of India. The applicability of the doctrine of *res judicata* to writ proceedings has been upheld by the Hon'ble Division Bench of the Supreme Court of India in case of *Association for Democratic Reforms Vs. Election Commission of India and Another*, reported in (2025) 2 SCC 732, wherein it has been categorically held in paragraphs 107 to 111 as under:—

“107. It is pertinent to reiterate that the doctrine of res judicata is applicable to writ petitions under Article 32 and Article 226 as well. The inclusion of the term “public right” in Explanation VI of Section 11 of the Civil Procedure Code, 1908 aims to avoid redundant legal disputes concerning public rights. Given this clarification, there is no room for debate regarding the application of Section 11 to matters of public interest litigation presented through writ petitions.

108. In Daryao v. State of U.P. [Daryao v. State of U.P., 1961 SCC OnLine SC 21 : (1962) 1 SCR 574] , a Constitution Bench of



this Court emphasised that the rule of res judicata is founded on significant public policy considerations rather than being a mere technicality. It was clarified that petitioners seeking to challenge a decision must present new grounds distinct from those previously raised in order to escape the bar of res judicata. The Bench articulated this as follows:

“31. ... We are satisfied that a change in the form of attack against the impugned statute would make no difference to the true legal position that the writ petition in the High Court and the present writ petition are directed against the same statute and the grounds raised by the petitioner in that behalf are substantially the same.”

109. Another Constitution Bench of this Court in Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra [Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra, (1990) 2 SCC 715 : 1990 SCC (L&S) 339] followed the aforesaid dictum to hold that the principles of res judicata are not foreign to writ petitions. A reference may be made to the following paragraph :

“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 U.P. [Daryao v. State of U.P., 1961 SCC OnLine SC 21 : (1962) 1 SCR 574] 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 be circumvented by a petition under Article 32. An attempted change in the form of the petition or the grounds cannot be allowed to defeat the plea”

110. No doubt, res judicata bars parties from re-litigating issues that have been conclusively settled. It is true that this principle is not rigid in cases of substantial public interest and constitutional courts are empowered to adopt a flexible approach in such cases, acknowledging their far-reaching public interest ramifications.

111. However, this standard is applicable only when substantial evidence is presented to validate the irreversible harm or



detriment to the public good resulting from the action impugned. The Court must come to the conclusion that the petition is not just an old wine in a new bottle, but rather raises substantial grounds not previously addressed in litigation. Only under these circumstances may it consider such a petition; otherwise, it is within its authority to dismiss it at the threshold.”

12. In the light of the submissions made and upon perusal of the aforesaid judgment, this Court is of the firm view that due to Explanation V of the section 11 of the Code of Civil Procedure, 1908 i.e. doctrine of *res judicata* which is applicable in the applications under Article 226 of the Constitution of India, this writ petition is not fit to be allowed. Hence, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17/02/2026
Transmission Date	NA

