

March 31, 2026  
Sl. No.11  
Court No.1  
s.biswas

WPCT 261 of 2025

*Shri Shaym Nandan Mishra and another*  
*vs.*  
*The Union of India and others*

Mr. Mahadev Ghosh  
Mr. Arun Kr. Paul  
Ms. Shikha P. Chowdhury  
... for the petitioners

Mr. Ajay Chaubey  
Ms. Sanjukta Gupta  
Mr. Abhishek Kr. Singh  
Ms. Swati Jha  
... for the respondents Union of India

Dictated by Sujoy Paul, C.J.

1. Affidavit of service filed by the petitioners is taken on record.
2. Mr. Mahadev Ghosh, learned counsel for the petitioners and Mr. Ajay Chaubey, learned counsel for the respondents Union of India are heard on admission.
3. This petition under Article 226/227 of the Constitution of India assails the order dated 21.07.2025 passed in O.A. 350/921/2025 by the Central Administrative Tribunal, Kolkata Bench, Kolkata, whereby the application filed by the petitioners was dismissed by holding

that OA is barred by principles of *res judicata*.

4. The factual background of the matter is that the petitioner filed first Original Application 350/1990/2021 before the Tribunal seeking direction to consider his representation/legal notice claiming compassionate appointment. The Tribunal by order dated 18.04.2022 (first order) disposed of the OA by directing the respondents to consider the representation of the petitioner in the light of the order.
5. In turn, by communication dated 10.08.2022 (Annexure P-5) the department opined that the applicant's claim for compassionate appointment to younger brother of ex-employee cannot be accepted and same was therefore rejected. The petitioner preferred another representation to General Manager on 02.07.2023 for the similar relief which was already dismissed by communication dated 10.08.2022 (Annexure P-5).

6. The second O.A. 350/306/2024 was filed before the Tribunal wherein the claim of the original applicant was prayed to be considered for compassionate appointment in the light of the order passed in allegedly similar matter. The Tribunal dismissed this O.A. by holding that the rejection order dated 10.08.2022 has not been challenged in the second O.A. and therefore the O.A. is misconceived and not maintainable.

7. Petitioner then filed O.A. 350/531/2024 which was dismissed on 24.04.2024 by holding that on earlier occasion his grievance was considered and rejected on merits. Merely because the petitioner filed another representation, O.A. is not maintainable and hit by principles analogous to Order II Rule 2 of the CPC.

8. Aggrieved, the petitioner challenged this order by filing WPCT 6 of 2024 before this court. However, on 14.05.2022 he withdrew the said petition with the liberty to file proceedings in accordance with law.

The instant matter O.A. 350/921/2025 was filed by praying that the said speaking order dated 10.08.2022 be set aside.

9. The Tribunal after considering its previous orders dated 18.03.2024 and 24.04.2024 (supra) came to hold that the present O.A. is hit by Section 11 of CPC and deserves to be dismissed with heavy costs. The Tribunal accordingly dismissed the same.

10. Learned counsel for the petitioner advanced singular contention. He submits that no doubt when he filed the second petition O.A. 306 of 2024, he did not challenge the rejection order dated 10.08.2022. However, in that O.A. he prayed that his representation may be considered and in that representation he prayed that rejection order is bad in law. This technicality should not come in his way.

11. Mr. Chaubey, learned counsel for the respondents Union of India supported the impugned order.

12. We have heard the parties at length and perused the record.

13. Admittedly, in the first O.A., the Tribunal directed the department to consider and decide the representation. In turn, by speaking order dated 10.08.2022, the petitioner's claim was rejected. The petitioner ought to have challenged the said rejection order in the second O.A. 306 of 2024. We are not impressed with the contention that even if the said rejection order was not challenged in the relief/prayer clause and a representation contains the details about the said speaking order, it will serve the purpose of a litigant. The relief claimed should be specific. Petitioner ought to have challenged the said order dated 18.04.2022.

14. The Tribunal in the second and third round rejected his O.A.s by orders dated 18.03.2024 and 24.04.2024. These orders have attained finality. The petitioner filed WPCT 6 of 2024, but withdrew the same.

Thus, in our opinion, it was no more open to the Tribunal to go behind and beyond its second and third orders mentioned hereinabove. The same is hit by principles analogous to Order II Rule 2 of CPC as well as Section 11 of CPC. The Tribunal has rightly held that in view of the previous orders, in the fresh round of litigation the speaking order dated 10.08.2022 cannot be permitted to be challenged. The scope of interference under Article 227 of the Constitution is limited. If impugned order is shown to be passed by a court having no jurisdiction or it suffers from any palpable illegality or manifest procedural impropriety, interference can be made. Another view is possible, is not a ground for interference. The Tribunal in our judgment has taken a plausible view which is inconsonance with law. Thus, admission is declined. Petition is **dismissed**.

**(Sujoy Paul, C.J.)**

**(Partha Sarathi Sen, J.)**

