



TRHC010014902025

2026:THC:550

**HIGH COURT OF TRIPURA
A G A R T A L A**

W.P.(C) No.517 of 2025

Kaizar Dev Barma

S/o- Late Samarendra Debbarma, R/O- Palace Compound, Haradhan Sangha, P.O- Agartala, District- West Tripura, PIN - 799001

..... **Petitioner(s)**

- Versus -

- 1. The State of Tripura**
to be represented by the Secretary, Dept. of Industries and Commerce, Government of Tripura, New Secretariat Building, P.O- Kunjaban, Agartala, West Tripura, PIN- 799006
- 2. The Director of Industries and Commerce,**
Government of Tripura, Gurkhabasti, P.O- Kunjaban, Agartala, West Tripura, Pin – 799006
- 3. The Additional Director,**
Industries and Commerce, Govt. of Tripura, Gurkhabasti, P.O- Kunjaban, Agartala, West Tripura, Pin – 799006
- 4. The Principal Accountant General (A and E), Tripura,**
PO- Kunjaban, Agartala - 799006, District- West Tripura
- 5. The Sr. Accountants Officer,**
O/o the Principal Accountant General (A and E), Tripura, PO- Kunjaban, Agartala- 799006, District- West Tripura

..... **Respondent(s)**

For the petitioner (s) : Mr. P. Roy Barman, Sr. Adv.
Ms. A. Debbarma, Adv.

For the Respondent (S) : Mr. P. Gautam, Sr. G.A.
Mr. D. Bhattacharya, Sr. Adv.
Mr. A. Chakraborty, Adv.

Date of hearing : 26.02.2026

Date of delivery of judgment and order : **30.04.2026**

Whether fit for reporting :

| Yes | No |
|-----|----|
| ✓ | |

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Heard learned counsel of both sides.

[2] The petitioner on attaining the age of superannuation retired from service on 31.01.2024 from the post of Additional Director (Industries & Commerce), Department of Industries & Commerce, Government of Tripura. After retirement, he submitted one representation dated 05.02.2024 to the Secretary and Director, Department of Industries & Commerce, Government of Tripura, Agartala, requesting sanction and release of post-retiral benefits to him. When no step was taken, he also submitted another reminder on 13.02.2024 in this regard.

[3] According to the petitioner, on retirement, he became entitled to get Rs.10,00,000 [Rupees Ten lakh] only as full and final settlement of gratuity and the amount payable under Leave Encashment benefit apart from his monthly pension. Thereafter, claiming the same, he submitted a representation on 05.02.2024 seeking the release of such post-retiral benefits and thereafter, his provisional pension amounting to Rs.78,150/- [Seventy Eight thousand One hundred Fifty] only was released for the period w.e.f. 01.02.2024 to 31.07.2024 and the final payment of GPF Rs.55,256/- [Rupees Fifty Five thousand Two hundred Fifty Six] only was also sanctioned. He again submitted another representation dated 26.02.2024 claiming other post-retiral benefits and he was informed that his Gratuity and Leave Encashment were kept on hold till completion of the departmental proceeding against him.

[4] When he was in service, one FIR was registered against him at NCC P.S bearing NCC P.S. Case No.2020 NCC 088, on 04.03.2020, under Section 409 of IPC and Section 13 of the Prevention of Corruption Act, 1988 which ultimately culminated into filing of charge-sheet. On that ground, his gratuity, leave salary and other pensionary benefits were withheld by the department and only provisional pension and the amount payable from GPF account were released to him.

[5] In such a situation, the petitioner filed WP(C) No.215/2024 with the following reliefs:

“a) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing and cancelling the letter, dated, 05.03.2024 issued by the Addl. Director, Industries & Commerce, Govt. of Tripura.

b) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to cause release of regular monthly pension, full & final payment of gratuity, leave encashment benefit, provident fund benefit, group insurance benefit in favour of the Petitioner, with 9% interest w.e.f. 01.03.2024 till payment is made.

And

Call for the records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute.”

[6] On hearing the parties, a coordinate bench of this Court disposed of the said case on 04.12.2024 with the following decisions and directions:

“[7] After perusal of the record, this court is of the view that there is no 2011 Financial Rules invoked when certain allegations in 2014 and 2015 were made against the petitioner and there is no direct financial irregularity by not following certain procedure construction has been made and also the vehicle which was under his control was used, since the same are not attracting 2011 Financial Rules. This Court finds that the respondents are not entitled to withhold the payment i.e, to be made to the petitioner.

[8] In view of the above observation, respondents are directed to release the amount which are withheld by them on account of the criminal case i.e, filed vide FIR No. 038 of 04.03.2020 within 2 months from the date of receipt of the copy of this order. Accordingly, the impugned order dated 05.03.2024 is set aside.

[9] With the above observation and direction, this present writ petition stands allowed and accordingly, the same is disposed of. As a sequel, miscellaneous application(s), pending if any, shall stand closed.”

[7] After such direction was issued by this Court, the department make payment of Rs.12,01,305/- [Rupees Twelve lakh One thousand Three hundred and Five] only as part payment of Leave Salary on 29.06.2024 and again Rs.7,52,445/- [Rupees Seven lakh Fifty One thousand Four hundred Forty Five] only was also released on 30.01.2025 as rest amount of Leave Salary. Further, Rs.7,50,000/- [Rupees Seven lakh Fifty thousand] only was sanctioned being 75% of full DCRG of Rs.10,00,000/- [Rupees Ten lakhs] only in his favour and the rest amount of Gratuity of Rs.2,50,000/- [Rupees Two lakh Fifty thousand] was released on 20.03.2025. The petitioner was also allowed to avail the benefit of commutation of pension w.e.f. 20.03.2025.

[8] It is now the grievance of the petitioner that after said judgment was passed, all the post-retiral benefits were disbursed to the petitioner but no interest on leave salary, gratuity and commutation of pension were provided to him. Therefore, the present writ petition has been filed seeking the following reliefs:

(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to provide interest @ 9% per annum to the Petitioner on Rs.7,52,445/- w.e.f. 01.03.2024, i.e. from the date on which leave salary became payable till the date of payment, i.e. 30.01.2025.

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to provide interest @ 9% per annum to the Petitioner on Rs. 12.01,305/- w.e.f. 01.03.2024, i.e. from the date on which leave salary became payable till the date of payment, i.e. 29.6.2024.

(iii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to provide interest @ 9% per annum to

the Petitioner on Rs. 7,50,000/- w.e.f. 01.03.2024, i.e. from the date on which Gratuity became payable till the date of payment, i.e. 30.01.2025

(iv) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to provide interest @ 9% per annum to the Petitioner on Rs. 25,00,00/- w.e.f. 01.03.2024, i.e. from the date on which Gratuity became payable till the date of payment, i.e. 20.03.2025

(v) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to provide interest @ 9% per annum to the Petitioner on Rs.30,73,734/- w.e.f. 01.03.2024, i.e. from the date on which commutation of pension became admissible till the date of actual commutation of pension, i.e. 20.03.2025.

(vi) Make the rules absolute.

(vii) Call for records....”

[9] Learned senior counsel, Mr. P. Roy Barman, submits that the earlier writ petition was allowed by this Court which means that all the reliefs as sought for by the petitioner were allowed, though in no specific words or terms, the relief of granting of interest was mentioned in the said judgment. However, for non-payment of such interest which the petitioner is otherwise entitled, the present writ petition is filed as meanwhile the limitation period for filing contempt petition was over.

[10] Learned senior counsel, Mr. Barman, also submits that the petitioner is, therefore, entitled to get the reliefs of interest as claimed by him and non-granting of such interest in specific words or terms in the previous writ petition will not bar his claim in the present writ petition and the principles of res-judicata will not be applied in this contexts.

[11] To support such contention, learned senior counsel, Mr. Roy Barman, further relies on a decision of Hon'ble the Supreme Court in the case of **M. Nagabhushana vs. State of Karnataka and others, (2011) 3**

SCC 408 and the paragraph nos.17 to 20 and 24 as relied by him, are extracted hereunder:

17. It may be noted in this context that while applying the principles of res judicata the court should not be hampered by any technical rules of interpretation. It has been very categorically opined by Sir Lawrence Jenkins that:

“... the application of the rule by courts in India should be influenced by no technical considerations of form, but by matter of substance within the limits allowed by law.”

(See *Sheoparsan Singh v. Ramnandan Singh* : (1915-16) 43 IA 91)

18. Therefore, any proceeding which has been initiated in breach of the principles of res judicata is prima facie a proceeding which has been initiated in abuse of the process of court.

19. A Constitution Bench of this Court in *Devilal Modi v. STO* :AIR 1965 SC 1150, has explained this principles in very clear terms:

“7. ... But the question as to whether a citizen should be allowed to challenge the validity of the same order by successive petitions under Article 226, cannot be answered merely in the light of the significance and importance of the citizens' fundamental rights. The general principles underlying the doctrine of res judicata is ultimately based on considerations of public policy. One important consideration of public policy is that the decisions pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by appellate authorities; and the other principle is that no one should be made to face the same kind of litigation twice over, because such a process would be contrary to considerations of fair play and justice (vide *Daryao v. State of U.P.* : AIR 1961 SC 1457).”

20. This Court in *AIMO* case : (2006) 4 SCC 683 explained in clear terms that principle behind the doctrine of res judicata is to prevent an abuse of the process of court. In explaining the said principle the Bench in *AIMO* case relied on the following formulation of Somervell, L.J. in *Greenhalgh v. Mallard* : (1947) 2 All ER 255 (CA):

“39. ‘I think that on the authorities to which I will refer it would be accurate to say that res judicata for this purpose is not confined to the issues which the court is actually asked to decide, but that it covers issues or facts which are so clearly part of the subject-matter of the litigation and so clearly could have been raised that it would be an abuse of the process of the court to allow a new proceeding to be started in respect of them.’”

(emphasis supplied in *AIMO* case)

The Bench in *AIMO* case also noted that the judgment of the Court of Appeal in *Greenhalgh* was approved by this Court in *State of U.P. v. Nawab Hussain* : (1977) 2 SCC 806.

24. In coming to the aforementioned finding, this Court relied on *The Supreme Court Practice, 1995* published by Sweet & Maxwell (p. 344). The relevant principles laid down in the aforesaid practice and which have been accepted by this Court are as follows: [*K.K. Modi case* : (1998) 3 SCC 573]

“43. ... ‘This term connotes that the process of the court must be used bona fide and properly and must not be abused. The court will prevent improper use of its machinery and will in a proper case, summarily prevent its machinery from being used as a means of vexation and oppression in the process of litigation. ... The categories of conduct rendering a claim frivolous, vexatious or an abuse of process are not closed but depend on all the relevant circumstances. And for this purpose considerations of public policy and the interests of justice may be very material.’ ”

[Emphasis underscored]

[12] Finally, learned senior counsel, Mr. Barman, submits that neither the petitioner by this present writ petition is trying to reopen or re-agitate any issue already decided by this Court, nor he is attempting to abuse the process of Court, and therefore, the writ petition may be allowed granting the reliefs as sought for by the petitioner.

[13] On the other side, Mr. P. Gautam, learned senior G.A. appearing for the state-respondents while arguing the case submits that the writ petition is barred by the principles of res-judicata relying on the aforesaid decision of the Hon’ble Supreme Court in the case of **M. Nagabhushana** (supra), wherein paragraph Nos.21 & 22, referring to a Constitution Bench decision, the followings were observed:

21. Following all these principles a Constitution Bench of this Court in *Direct Recruit Class II Engg. Officers' Assn. vs. State of Maharashtra*, (1990) 2 SCC 715 laid down the following principles:

".....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"

22. In view of such authoritative pronouncement of the Constitution Bench of this Court, there can be no doubt that the principles of Constructive Res Judicata, as explained in explanation IV to Section 11 of the CPC, are also applicable to writ petitions.

[14] Mr. Gautam, learned senior G.A further relies on another decision of the Hon'ble Supreme in the case of **Samir Kumar Majumder vs. Union of India and others, (2024) 16 SCC 738** has observed as under:

34. This principle popularly known as the doctrine of constructive res judicata, based on the might and ought theory, has been recognized by this Court in several judgments. In *Maharashtra Vikrikar Karamchari Sangathan vs. State of Maharashtra and another, (2000) 2 SCC 552*, this Court held as under:-

"22. It was then contended on behalf of the appellants that neither the Recruitment Rules of 1971 nor the Seniority Rules of 1982 provided for carrying forward the vacancies falling in either category. In the absence of such rules which specifically provide for carrying forward the vacancies falling in either category, no such carry-forward rule could be implied either in the Recruitment Rules or in the Seniority Rules. This contention need not detain us any longer because such a contention was available to the appellants in the earlier proceedings, namely, Transfer Application No.822 of 1991 and the same was not put in issue. That not having been done, it must follow that such a contention is barred by the principles of constructive res judicata. Neither the contesting respondents nor the appellants ever raised this contention at any stage of the proceedings in Transfer Petition No.822 of 1991. It would, therefore, be too late to raise such a contention when the seniority list has been finalized pursuant to the judgment of MAT, Bombay Bench in Transfer Petition No. 822 of 1991."

[15] In the case in hand as discussed above, when the gratuity, the leave salary and other post-retiral benefits were withheld by the department, the petitioner filed the previous writ petition for a direction to be issued the respondents to release his monthly pension, full and final gratuity, leave encashment benefit, provident fund benefit and group insurance benefit in favour of the petitioner along with 9% interest [emphasis laid] w.e.f. 01.03.2024 till the payment is made.

[16] Learned Coordinate Bench of this Court after hearing both the sides and considering the merit of the case, finally disposed of the same on 04.12.2024, directing the respondents to release the amounts which were withheld by them within two months, as indicated earlier in Para No.6 above.

[17] Despite the relief as sought by the petitioner to grant him interest @ 9% per annum upon those withheld amounts, the Court did not grant such relief. The petitioner was satisfied with the judgment passed in the said previous writ petition and did not challenge the same in any appeal and the judgment reached the finality.

[18] In terms of the said judgment, the department had already released all his post-retiral benefits, which were withheld by them, but without paying any interest on the same. Therefore, now the question arises whether the petitioner can be permitted again to raise the same issue of granting interest to him on those withheld amounts, which were released to him later on, in view of the principles of res-judicata.

[19] In **M. Nagabhushana** (supra) as relied on by both the parties it is observed that the application of rule of res-judicata in India should be influenced by no technical considerations of form, but by the matter of substance within the limits allowed by the law. It has also been clarified that in the matter of res-judicata the public policy plays a significant role and the decision pronounced by the courts of competent jurisdiction shall be treated to be final, unless they are modified or reversed by the appellate authorities.

[20] In **Greenhalgh vs. Mallard, (1447) 2 ALL ER-225**, it was observed by His Lordship, Somervell, L.J that the principles of res-judicata is not confined to the issues which the Court was actually asked to decide, but that it also covers issues or facts which are so clearly part of the subject-matter of the litigation and so clearly could have been raised that it would be an abuse of the process of the Court to allow a new proceeding to be started in respect of them. Such observation has also been referred in said **M. Nagabhushana** (supra). Thus, there is no doubt that the applicability of res-judicata is required to be considered in a wider magnitude.

[21] In **K.K. Modi vs. K.N. Modi and others, (1998) 3 SCC 573** also the Hon'ble Supreme Court observed that it would be an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which had already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata, but if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court.

[22] In the present case, as discussed above, the petitioner in specific terms made his claim for granting interest on the withheld amounts of his post-retiral benefits in the previous litigation but the same was not granted to him. Therefore, in the opinion of this Court, now under the colour of a new cause of action based on the subsequent disbursement of such benefits made to him by the respondents after the judgment of the previous writ petition, the claim of granting interest again before the Court by filing a fresh writ petition cannot be permitted to allow. It has become barred by the

principles of res-judicata in view of the Explanation-V of Section 11 of the Code of Civil Procedure.

[23] Considering thus, it is held that the present writ petition is barred by the principles of res-judicata and accordingly, the same is dismissed.

No order as to costs.

Pending application(s), if any, shall also stand disposed of.

JUDGE

Sujay