



2025:AHC-LKO:72795-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 496 of 2023

Amar Nath Dwivedi

.....Appellant(s)

Versus

U.O.I. thru Secy. E.P.F.O. New Delhi and others

.....Respondent(s)

Counsel for Appellant(s)	: In Person
Counsel for Respondent(s)	: A.S.G, Akhilesh Pratap Singh, C.S.C., Illegible, Om Prakash Srivastava, Shobhit Mohan Shukla

ALONGWITH

SPECIAL APPEAL DEFECTIVE No. - 215 of 2025

Amar Nath Dwivedi

.....Appellant(s)

Versus

Union of India, through Secretary, Ministry of
Labour and Employment, E.P.F.O., New Delhi and
others

.....Respondent(s)

Counsel for Appellant(s)	: In Person
Counsel for Respondent(s)	: A.S.G.I., Akhilesh Pratap Singh, Anupriya Srivastava, C.S.C., Kaushlendra Yadav, Om Prakash Srivastava, Shobhit Mohan Shukla

Judgment Reserved : 19.08.2025

Judgment Delivered: 14.11.2025

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

(Per : Justice Jaspreet Singh)

1. This is batch of two intra court appeals, assailing the common judgment and order dated 03.10.2023 passed by the learned Single Judge in Writ-A No.8096 of 2022 (Amar Nath Dwivedi Vs. Union of India and others) and Writ-A No.7557 of 2022 (Amar Nath Dwivedi Vs. Union of India and others) by which the two writ petitions of the appellant have been dismissed.

2. The appellant, appeared in person and submitted that the learned Single Judge did not consider the reliefs claimed in the two writ petitions and erroneously dismissed the writ petitions.

3. It was also urged that the learned Single Judge did not consider the background of the facts and did not notice several orders passed and by ignoring the same the learned Single Judge has committed an error. The writ petitions were dismissed by invoking the provisions of Order 2 Rule 2 CPC which are not applicable and the learned Single Judge skipped the submissions and did not examine the grievance of the appellant who has been suffering at the behest of the respondents since 1999.

4. It was also urged that the learned Single Judge did not consider the observations made by a Division Bench of this Court in Special Appeal No.320 of 2022 and in a cursory manner dismissed both the writ petitions which has caused grave injustice to the appellant and the same is sought to be vindicated by filing the instant two intra court appeals.

5. Shri Shobhit Mohan Shukla, learned counsel appearing for the respondent, Shri Anand Kumar Singh learned Standing Counsel for the State, Shri Akhilesh Pratap Singh for the respondent no.6, Kaushlendra Yadav for respondent no.4 and Shri Anand Dwivedi for the respondent no.1 have contended that the grievance sought to be raised by the appellant already stands concluded.

6. Shri Shobhit Mohan Shukla, learned counsel taking his submission forward urged that the appellant is in a habit of engaging in repeated litigation and he had filed several writ petitions. The issue that the appellant seeks to urge has already been hedged by the Apex Court in its order dated 02.03.2017. Once the issue stood concluded by the order passed by the Apex Court, the same controversy could not be agitated by the appellant. However, he filed multiple petitions thereafter and each of the petition was dismissed. The appellant has tried to draw the respondent authorities into contempt proceedings as well as moving an application under Section 340 Cr.P.C. which were dismissed. Not being satisfied, the appellant once again attempted a misadventure by filing Writ-A No.7557 of 2022 and Writ-A No.8096 of 2022 both have been dismissed by the common order dated 03.10.2023 and the said order does not require interference. The instant appeal is also another attempt to keep the authorities engaged in frivolous litigation which is also liable to be dismissed.

7. The Court has heard the appellant in person and Shri Shobhit Mohan Shukla, Shri Anand Kumar Singh, Shri Akhilesh Pratap Singh, Shri Kaushalendra Yadav and Shri Anand Dwivedi learned counsel for the respondents.

8. In order to appreciate the contention of the respective parties, it will be appropriate to take a glance at the background facts. The dispute raised by the appellant has its genesis with the engagement of the appellant as a training officer, on contractual basis on a consolidated sum of Rs.6000/- per month with the U.P. Cooperative Spinning Mill's Federation Ltd. The period of engagement was from 25.09.1998 till 24.09.1999. Prior to the contractual period coming to an end, the appellant was appointed in Sarv Shiksha Abhiyan-Education (which was a State Project of Education), a Society formed for the purposes of achieving universal elementary education. The said Society was funded by the Government of India to the extent of 60% and 40% by the State Government.

9. When the appellant was relieved by the U.P. Cooperative Spinning Mill's Federation Ltd. on 24.09.1999 the appellant preferred Writ Petition No.35625 (M/S) of 2000 before this Court at Allahabad (Amar Nath Dwivedi Vs. State of U.P. and others) and the said petition came to be dismissed on 17.01.2002. The appellant assailed the said order by filing a special appeal No.282 of 2002 and the order passed by the learned Single Judge dated 17.01.2002 was set aside and the matter was directed to be decided afresh.

10. After the remand the writ petition was heard again and by means of judgment and order dated 16.07.2002 the writ petition was allowed. The special appeal preferred by the U.P. Cooperative Spinning Mill's Federation Ltd. was also dismissed by means of judgment and order dated 08.08.2006.

11. The U.P. Cooperative Spinning Mill's Federation Ltd. preferred a special leave petition before the Apex Court wherein the order passed by the Division Bench in Special Appeal No.938 of 2002 and the judgment and order passed by the learned Single Judge dated 16.07.2002 was assailed. The Hon'ble Supreme Court by means of its judgment and order dated 02.03.2017 allowed the appeal of the U.P. Cooperative Spinning Mill's Federation Ltd. and it held as under:-

"Civil Appeal No.3652/2017 (Special Leave Petition (civil) No.3408 of 2014)

Leave granted.

This appeal has been preferred by the State of U.P. against the direction in the impugned order to the effect that employees working on deputation belonging to Public Sector Undertakings, (which had become sick) was required to be protected. The respondent claimed to have been sent on deputation to the State of U.P. by the U.P. Co-operative Spinning Mills Federation Limited. Accordingly to the respondent his appointment with the U.P. Co-operative Spinning Mills as of permanent nature which claim was accepted by the High Court in its judgment dated 08.08.2007. The said judgment has been set aside in Civil Appeal No.5491 of 2007.

In view of above, the claim of the respondent that he was in permanent employment of the U.P. Co-operative Spinning Mills Federation Limited and in that capacity he was on deputation falls to the ground. On that basis his entitlement to claim absorption in the State services can not be sustained.

Accordingly, the impugned order of the High Court is set aside and the appeal is allowed.

Civil Appeal No.3653/2017 (Special Leave Petition (Civil) No.1708 of 2015)

Leave granted.

In view of the order passed in Civil Appeal No.3652/2017 (SLP(C) No.34308/2014), this appeal is allowed and the impugned order is set aside.

It may, however, be noted that even though we have held that respondent Amar Nath Dwivedi has no locus to claim employment under the State, the State is not debarred from engaging services of respondent, if the State is so advised, on such terms and conditions, as may be found to be appropriate in accordance with law. We do not express any opinion on future course of action which the State of U.P. may adopt."

12. From the above, it would reveal that the Apex Court clearly noticed that the appellant did not have any claim on the post after the date when his contractual

employment came to an end. The judgment passed by the learned Single Judge as well as Division Bench dated 08.08.2006 and 16.07.2002 respectively were set aside. Noticeably the Apex Court categorically noted that though they held Amar Nath Dwivedi had no locus to claim employment under the State yet the State was not debarred from engaging the services of the appellant herein on such terms and conditions as may be found to be appropriate in accordance with law. The Apex Court further noticed that it did not express any opinion on future course of action which the State of U.P. may adopt.

13. Once this limb of litigation was decided by the Apex Court, the appellant initiated another spate of petitions. The appellant initiated Writ-A No.1629 of 2013, Writ-A No.200 of 2014, another petition bearing Writ -A No.17420 of 2016, Writ -A No.21517 of 2019. Learned Single Judge of this Court decided all the aforesaid writ petitions by a common order dated 11.05.2022. Learned Single Judge first noted the reliefs claimed and taking note of the background facts as well as the submissions of the appellant, who had appeared in person and held as under:-

"Therefore, the arguments raised by the petitioner, as noticed hereinabove, based on the mala fides of the B.S.A, Ghazipur and the letters of the Addl. Director do not help his cause. Judgment of Hon'ble the Supreme Court leaves very little scope for interference in the matter. As regards recovery of the salary already paid to the petitioner, as ordered by the State Project Director vide his order dated 14.7.2019 is concerned, the same does not appear to be reasonable on facts and in law and that part of the order is quashed. So far as lodging of F.I.R is concerned, the same has to be dealt with as per the criminal law and the court does not express any opinion on this aspect of the matter, however, the order dated 25.7.2019 makes it very clear that the State never intended to continue with the petitioner after 2.3.2017 and does not want to do so now. Therefore, keeping in mind the order of Hon'ble the Supreme Court quoted hereinabove the petitioner is not entitled to continue any further in the Sarva Shiksha Abhiyan under the State Government. Annexure-2 has already been quashed by the Assitt. Director (Basic). Annexure-1 to the petition dated 25.7.2019 is sustained, but only to the extent aforesaid.

Sri Shukla informs that as far as E.P.F. contribution is concerned, the

requisite cheque has been sent to the erstwhile employer of the petitioner, i.e. the Mill, referred hereinabove. The petitioner may collect it from there.

The petitioner has already been paid salary for the requisite months as mentioned in the interim order dated 20.4.2020, as informed by Sri Shukla, Addl. C.S.C.

If the petitioner claims any dues for the period he has worked, he may approach the concerned authorities.

Subject to above, this Writ-A No. 21517 of 2019 is dismissed.

In view of the above discussions the connected petitions (Writ-A Nos. 2001629/13, 2000200/14 and 17420/16) also do not survive. The same are also dismissed, as all these petitions pertain to the period prior to 2.3.2017 and the subject matters are already covered by the decision of Hon'ble the Supreme Court aforesaid.

All the pending applications are also disposed of in the light of the aforesaid."

14. After the dismissal of the aforesaid four writ petitions, the appellant carried the matter forward by filing Special Appeal No.320 of 2022 and the same also came to be dismissed by means of judgment and order dated 19.10.2022. Certain relevant paragraphs of the judgment and order dated 19.10.2022 passed by a Co-ordinate Bench dismissing Special Appeal No.320 of 2022 are being noticed hereinafter.

"16. As already observed above, before learned Single Judge, the appellant-petitioner could not show any order passed by the State Government after the order of the Supreme Court dated 2.3.2017 whereby his services could have been engaged prescribing certain terms and conditions as observed by Hon'ble Supreme Court in the said order. We are of the considered opinion that in absence of any conscious order passed by the State Government pursuant to the order dated 2.3.2017 passed by the Hon'ble Supreme Court for engaging the services of the appellant-petitioner, he cannot claim his continuance and, as such, challenge made by him to the order of relieving dated 25.7.2019 passed

by the State Project Director, Sarv Shiksha Abhiyan fails utterly.

17. Merely because the appellant-petitioner under some confusion was allowed to continue to work with Sarv Shiksha Abhiyan even after the order dated 2.3.2017 passed by the Hon'ble Supreme Court, it cannot be said that such a continuance will amount to conscious engagement of his services by the State Government with Sarv Shiksha Abhiyan. The Hon'ble Supreme Court in its order dated 2.3.2017 had only observed that State will not be debarred from engaging services of the respondent if the State is so advised on such terms and conditions as may be found appropriate in accordance with law. Such an observation clearly means that it was left open to the State Government to engage the services of the appellant-petitioner, which, in absence of any express decision or order by the State Government, cannot be treated to be in existence. Accordingly, we express our agreement with the finding recorded by the learned Single Judge that since the State Government did not pass any order for engaging the services of the appellant-petitioner, he cannot claim his continuance on the strength of the order of the Hon'ble Supreme Court dated 2.3.2017.

18. We may also note that the appellant-petitioner had filed a review petition against the order dated 2.3.2017, namely, Review Petition (C) No.1460 of 2017 in Civil Appeal No.5491 of 2007, which was dismissed by means of an order dated 25.7.2017 with the following observations:-

"We have carefully gone through the review petition and the connected papers. However, we do not find any merit in the review petition. Accordingly the review petition is dismissed."

19. After dismissal of the review petition of Hon'ble Supreme Court, it would have been permissible for the appellant-petitioner to have continued in the employment of the State Government only if State would have taken a conscious decision and, accordingly, passed an order on such terms and conditions, which could have been thought appropriate for engaging the services of the appellant-petitioner. There is nothing on record which shows that State ever took any such conscious decision, as such, the claim of the appellant-petitioner for continuation to serve the State Government in Sarv Shiksha Abhiyan, in our considered opinion, is

not permissible.

20. It is also to be noticed that State Project Director while passing the order dated 25.7.2019 has provided therein that continuance of the appellant-petitioner in Sarv Shiksha Abhiyan after the Judgment of the Hon'ble Supreme Court was delivered on 2.3.2017, was based on suppression of facts and, as such, he is guilty of embezzlement of an amount of Rs.17,71,951/- The Basic Education Officer by means of the office order dated 1.7.2019 had ordered lodging of the F.I.R. against the appellant-petitioner for the alleged embezzlement of the said amount, however, after investigation of the said First Information Report, the final closure report was submitted by the Investigating Agency, which has been accepted by the court concerned.

21. In the aforesaid background facts relating to continuance of appellant-petitioner after Judgment dated 2.3.2017, learned Single Judge has recorded a finding that one of the three civil appeals, which were decided by the Hon'ble Supreme Court by means of the Judgement and order dated 2.3.2017, was filed by the State Government, which was allowed as well and, as such, it was not open to the State Government to plead that State Government did not have any knowledge of the said order of the Hon'ble Supreme court dated 2.3.2017 and further that the appellant-petitioner cannot be said to be guilty of suppression of any fact. Learned Single Judge has also recorded a finding that all through this period, the appellant-petitioner has worked in Sarv Shiksha Abhiyan, hence, recovery of said amount of Rs.17,71,951/- will not be appropriate. Learned Single Judge has, thus, held that misappropriation of the amount as alleged in the order dated 25.7.2019 passed by the State Project Director, Sarv Shiksha Abhiyan, which was drawn by the appellant-petitioner towards salary, is not acceptable.

* * *

24. For the discussions made and reasons given above, we are in complete agreement with the Judgment and order dated 11.5.2022 passed by the learned Single Judge whereby all the four writ petitions filed by the appellant-petitioner have been dismissed with the observation that appellant-petitioner cannot be said to have misappropriated the amount

paid to him towards salary."

15. It is in the aforesaid backdrop that the observations made by the Division Bench in paragraph 24 is now pressed by the appellant and it is in this context that the appellant while filing the writ petition before the learned Single Judge had prayed for mandamus directing the respondent authorities to comply with the order and the observations made by the Division Bench in Special Appeal No.320 of 2022.

16. Simultaneously while the appellant was contesting the four writ petitions which came to be decided by the common judgment and order dated 11.05.2022 as well as the Special Appeal No.320 of 2022, the appellant filed a couple of Contempt Petitions bearing Nos.1029 of 2020 and 1201 of 2017.

17. As far as Contempt Petition No.1201 of 2017 is concerned, the same came to be dismissed by means of order dated 20.09.2019 holding that since the appellant was paid a sum of Rs.14,75,643/-, the contempt petition loses its efficacy. Later, the appellant filed another application seeking recall of the order dated 20.09.2019 which came to be rejected on 03.01.2020.

18. It will be relevant to notice that another application was moved by the appellant in Contempt Petition No.1201 of 2017 purportedly under section 340 Cr.P.C. hauling the State Authorities for filing a false affidavit. The said issue came to be resolved when Contempt Petition No.1201 of 2017 came to be dismissed for want of prosecution on 01.08.2024.

19. In the aforesaid backdrop, the appellant preferred a review petition against the order passed in Special Appeal No.320 of 2022. The said application for review was dismissed by a Co-ordinate Bench of this Court dated 17.01.2024 whereas the application preferred by the appellant under section 340 Cr.P.C. in Writ-A No.21517 of 2019 was also rejected on 20.01.2025.

20. The appellant also sought review of the judgment and order dated 11.05.2023 (for the purposes of clarity it may be noticed that the order dated 11.05.2022 was the one by which four writ petitions of the appellant were decided which was further challenged in Special Appeal No.320 of 2022 which came to be dismissed vide judgment and order dated 19.10.2022) passed in Writ-A No.21517 of 2019. The said review petition was also dismissed on

22.04.2025.

21. In the aforesaid backdrop when all the windows were shut and the appellant having taken his chances by filing several writ petitions which were dismissed availing the remedy of special appeals which were also dismissed and also filed several contempt petitions which were also dismissed, then the appellant once again filed Writ Petitions No.8096 of 2022 and 7557 of 2022.

22. At this stage it will be relevant to notice the relief's claimed by the appellant in his two writ petitions which have given rise to these appeals.

Prayers of Writ-A No.7557 of 2022:

"1. To issue a writ, order or direction in the nature of mandamus regarding issue repatriation order to the parental department in compliance of Hon'ble this High Court order dated 19.10.2022. Passed in Special Appeal No.320 of 2022 in which i.e. upheld that in respect of the ground taken by the appellant-petitioner regarding malice, learned Single Judge has recorded a finding that relieving order dated 01.07.2019 passed by the Basic Education Officer was already cancelled by the Additional Director (Basic Education) by means of his letter dated 02.07.2019 and, as such, the appellant-petitioner stands relieved not by virtue of order dated 01.07.2019 passed by the Basic Education Officer but under the order dated 25.07.2019 passed by the Project Director, Sarva Shiksha Abhiyan, State of Uttar Pradesh. In view of the aforesaid, the said submission made by the appellant-petitioner regarding the impugned action relieving him from Sarva Shiksha Abhiyan being infested with mala fide also does not appeal to us, without mentioning any stigmatic allegation to the parental Department as the Hon'ble this Court has been quashed all allegation and causes/ground by order dated 19.10.2022 which was mentioned/taken in office Order dated 25.07.2019, in applicable ter's/condition of service in borrowing department by office order dated 12.06.2015 which is not there in office order dated 25.07.2022 and as per settled law by Hon'ble supreme court that the borrowing department is the only shoes of the parental department and borrowing department have no power to terminate from service of any deputationist instead of these, they can only repatriate to parental department and as the petitioner appointment in borrowing department is

through advertisement and Entry From Front Door, hence relieving and repatriation should also be in proper way, neither should appear bad in laws nor thrown out from backdoor as per settled law as well as the parental department has been not giving any order to the petitioner regarding ending of the lien as they can able to pass any order when the petitioner will be in their administrative control after repatriation, while the parental department has been giving declaration Certificate on 30.10.2021 and 29.11.2021 to the Employees Provident Fund organization i.e. an organization of Govt. of India which verifies that the petitioner is still in employment in their establishment, therefore repatriation order must be required as per applicable service condition in Sarva Shiksha Abhiyan by OFFICE ORDER DATED 12.06.2015.

II. To issue a writ, order or direction in the nature of mandamus regarding pay salary with giving annual increment and D.A. with all Perk's up to till repatriation order will be passed to Parental department since 25.07.2022.

III. To issue a writ, order or direction in the nature of mandamus regarding pay gratuity, EPF contribution, up to, till repatriation order will be passed tot parental Department as well as Leave Encashment since 25.07.2022 to till repatriation order passed to parental department.

IV. To issue a writ, order or direction in the nature of mandamus regarding LPC (LAST PAY CERTIFICATE) also issue up to the date on which repatriation order will be passed to Parental Department and giving along with repatriation order.

V. To issue a writ, order or direction in the nature of which this Hon'ble Court fit and proper in the circumstances of the case in the favour of the petitioner.

VI. Heavy cost may be awarded in favour of the petitioner due to illegal harassment by the O.P.No.3 and 5, in mala fide intention and malice with stating false, in the interest of justice."

Prayers of Writ-A No.8096 of 2022:

"1. Issue a writ, order or direction in the nature of certiorari quashing the order passed by the opposite party no.4 dated Annexure No.1 to this

affidavit 11.08.2022.

2. To issue a writ, order or direction in the nature of mandamus regarding payment of due annual increment for July 2013 in compliance of Hon'ble this Court Division Bench order dated 14.03.2014 passed in Writ-A No.2000200 of 2014 as because the respondents not allowed with stating that the petitioner was not going on sanctioned leave in the month of Dec. 2012 for the year July 2012 to June 2013 which is fall's as the O.P.No.6 himself recommended for extension of the deputation period on 19.10.2012 and full salary paid for the month of Dec. 2012 with included leave period and up to June 2013 and onwards the evidence affirming that the annual increment withheld without giving any opportunity and with mala fide intention as the petitioner not making his sign on an illegal appointment in which the petitioner was a member of selection committee which may be verifies from the order dated 14.03.2014 passed in Writ Petition No.415 (S/B) of 2014.

3. To issue a writ, order or direction in the nature of mandamus regarding payments for the arrears in the head of one annual increment since July 2013 to 25 July 2019 from the opposite party no.6 and 7 with their D.A., HRA, Deputation Allowance and EPF contribution as admissible.

4. To issue a writ, order or direction in the nature of mandamus regarding payments for the arrears of D.A. and EPF contribution since January, 2014 to 26 May, 2014 from O.P. No.6.

5. To issue a writ, order or direction in the nature of mandamus regarding payment for the EPF contribution for the September 2013 and March 2014 to 26 May 2014 which is still not contributed, which is verifies from the O.P. No.5 letter dated 25.02.2022 and from the record of the salary payment detail from 5 March 2014 to 26 May 2014.

6. To issue a writ, order or direction in the nature of mandamus regarding payment for the EPF contribution since August 2015 to November 2015 from the O.P. No.7 which was still not contributed and Let may be verifies from the O.P.No.5 letter dated 25.02.2022 and from the Bank draft which was made by O.P.No.7 but i.e. still unpaid.

7. To issue a writ, order or direction in the nature of mandamus regarding payment for the EPF contribution from the D.A. arrears since July 2014 to June 2019 from O.P. No.7 which was not contributed while up to Dec. 2013 the O.P.No.6 was contributed from D.A. arrears and as per EPF Provision the contribution is made against the Basic and D.A.

8. To issue a writ, order or direction in the nature of mandamus regarding payment for inspection allowance since July 2011 to September 2013 from the O.P. No.6 and from July 2014 to June 2019 from the O.P. No.7 @ Rs.1000/- P.M. as the inspection work was done by the petitioner as per his work responsibility which has been mentioned in office order of the O.P.No.4 and as per direction issued by O.P.No.3 and while the petitioner inspected he was mentioned in movement register and after completion of the every month the salary was paid after verification that the petitioner was doing outdoor duty after approval by O.P.No.6 and 7 and then thereafter pay salary and in the instance case no one day salary was deducted which may be verified from evidence of the O.P. No.6 and 7 as well as competent authority, Senior Officer's and State of U.P. O.P. No.3 themselves taken action on the basis of petitioner inspection report as well as budget has been there for the inspection.

9. To issue a writ, order or direction in the nature of mandamus regarding payment for the LTC bill for Dec. 2012 and Dec. 2015 which was availed by the petitioner after previous approval from the O.P.No.6 and 7 respectively i.e. may be verified that the full salary was paid with treated sanctioned leave in January 2013 for the month of Dec. 2012 by O.P. No.6 himself who is the competent authority for sanction leave and for the month of Dec. 2015 also paid full salary after proper verification by the O.P.No.7.

10. To issue a writ, order or direction in the nature of mandamus regarding T.A. Bill for the financial year 2016-17 from the O.P.No.7 on the deputation basis as because the salary has been paid for that period on the basis of the deputation basis while the official T.A. was paid on contract basis for that period.

11. To issue a writ, order or direction in the nature of mandamus regarding official expenses about more than Rs.70000/- from O.P.No.6 in

the matter of completion the recruitment process for part time instructor in the year of 2012.

12. To issue a writ, order or direction in the nature of mandamus regarding payment for the completion of assessment work in the programme of the AAO ANGREGY SIKHE from the O.P. No.7.

13. To issue a writ, order or direction in the nature of mandamus regarding pay encashment from the remaining earn leave from the period of the 9.6.2011 to 25.7.2019 for 8 years from the O.P. No.6 and 7 as the Hon'ble Supreme Court has been settled a law that leave encshment is the part of the salary and after the ending of the service from one organization that will not be carrion for another organization.

14. To issue a writ, order or direction in the nature of mandamus regarding pay the salary since 01.07.2019 to 25.07.2019 with giving one annual increment since 01.07.2019 along with D.A. and all allowance as well as EPF contribution and all perks due to the relieving order dated 01.07.2019 was quashed by the Hon'ble this High Court by Order dated 19.10.2022.

15. To issue a writ, order or direction in the nature of mandamus regarding pay for the official tour expenses, medical bill for the FY 2018-2019 and for the FY 2019-2020 upto the 30.06.2019, which has been still not paid by the O.P. No.7.

16. To issue a writ, order or direction in the nature of mandamus regarding pay deducted amount for the payment in the head of LTC bill payment for the FY of the 2014-15, which was deducted beyond the provision.

17. To issue a writ, order or direction in the nature of mandamus regarding E.P.F. interest in which period were not given.

18. To issue a writ, order or direction in the nature of mandamus regarding action taken against the O.P. No.6 i.e. the BSA Ambedkarnagar, by the Income Tax Department for not giving Form 16 and not uploading the total income in 26 as in the FY of 2011-12 and 2014-15 or 2016-17 and for that reason the petitioner has suffer and in

future he will always face difficulties.

19. To issue a writ, order or direction in the nature of mandamus regarding action taken against the O.P. No.7 i.e. BSA Ghazipur, by the Income Tax Department for not uploading the income and deduction amount in the head of income tax in 26 as for the FY 2019-20, 2020-21 to till FY with in time and for that cause the department of the income tax create outstanding amount of Rs.63310/- for the FY 2019-20 while the O.P. No.7 was deducted Rs.98000/-, Therefore for this events only happened due to the mala fide intention of BSA Ghazipur.

20. To issue a writ, order or direction in the nature of mandamus regarding action taken against the O.P. No.7 i.e. BSA Ghazipur, by the Department of Income Tax for not giving Form-16.

21. To issue a writ, order or direction in the nature of mandamus regarding if possible than O.P. No.1 8 11 (Department of income tax) may be directed regarding resolve the rectification which has been filled by the petitioner on 9 Sep. 2022 after appearance/reflecting (after 25.08.2022 i.e. actually reflected on 28.08.2022 night) the amount in 26 as for the FY 2019-20 and also for return access amount as per law as soon as possible early.

22. To issue a writ, order or direction in the nature of which this Hon'ble court deem fit and proper in the circumstances of the case in the favour of the petitioner."

23. It is in the above backdrop and considering the prayers which have been claimed by the appellant, it would be found that the observations which were made in favour of the appellant in the judgment of the learned Single Judge dated 16.07.2002 and in Special Appeal No.938 of 2022 decided on 08.08.2006, the same were washed out the moment Hon'ble Supreme Court vide its judgment dated 02.03.2017 had allowed the Special Leave Petitions. The appellant thereafter had sought various remedies through several writ petitions and as already noticed above the dispute and the claims which were made by the appellant at different point of time through Writ Petitions No.16291 of 2013, 200 of 2014, 17420 of 2016 and 21517 of 2019 were also dismissed vide order dated 11.05.2022.

24. Needless to say that the judgment and order dated 11.05.2022 was affirmed in Special Appeal No.320 of 2022. The appellant sought review which were dismissed and the order had attained finality, once again by raking up the same issue with different phraseology and terminology does not infuse a fresh cause of action to the appellant. All the issues and grounds which were available with the appellant ought to have been taken altogether and it is not permissible in the law for a party to claim reliefs in piece meal.

25. It is taking note of the aforesaid that the learned Single Judge in paragraph-7 to 9 has considered that the reliefs which are being sought in the writ petitions which has given raise to the instant intra court appeals was already claimed and could have been claimed in the earlier writ petitions but which was not done. Accordingly considering the fact that writ jurisdiction is a discretionary the learned Single Judge refused to entertain the petition and by invoking the principles of constructive res-judicata as well as principles of Order 2 Rule 2 CPC rejected the writ petitions.

26. At this stage it will be relevant to notice the Henderson Principle which has been explained by the Apex Court in **Celir LLP vs. Sumati Prasad Bagna 2024 SCC OnLine SC 3727**. The relevant paragraphs 135 to 149 which reads as under :-

"135. The 'Henderson Principle' is a foundational doctrine in common law that addresses the issue of multiplicity in litigation. It embodies the broader concept of procedural fairness, abuse of process and judicial efficiency by mandating that all claims and issues that could and ought to have been raised in a previous litigation should not be relitigated in subsequent proceedings. The extended form of res-judicata more popularly known as 'Constructive Res Judicata' contained in Section 11, Explanation VII of the CPC originates from this principle.

136. In Henderson v. Henderson, [1843] 3 Hare 999, the English Court of Chancery speaking through Sir James Wigram, V.C. held that where a given matter becomes the subject of litigation and the adjudication of a court of competent jurisdiction, the parties so litigating are required to bring forward their whole case. Once the litigation has been adjudicated by a court of competent jurisdiction, the same parties will not be permitted to reopen the lis in respect of issues which might have been

brought forward as part of the subject in contest but were not, irrespective of whether the same was due to any form of negligence, inadvertence, accident or omission. It was further held, that principle of res judicata applies not only to points upon which the Court was called upon by the parties to adjudicate and pronounce a judgment but to every possible or probable point or issue that properly belonged to the subject of litigation and the parties ought to have brought forward at the time. The relevant observations read as under:—

“In trying this question I believe I state the rule of the Court correctly when I say that, where a given matter becomes the subject of litigation in, and of adjudication by, a Court of competent jurisdiction, the Court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of res judicata applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time. [...]”

(Emphasis supplied)

137. The above proposition of law came to be known as the ‘Henderson Principle’ and underwent significant evolution, adapting to changing judicial landscapes and procedural requirements. The House of Lords in *Johnson v. Gore Wood & Co*, [2002] 2 A.C. 1, upon examining the ‘Henderson Principle’ authoritatively approved it with the following observations:—

(i) Lord Bingham of Cornhill integrated the principle with the broader doctrine of abuse of process and held that the

bringing of a claim or the raising of a defence in later proceedings which ought to have been raised earlier will not always be hit by this principle, but rather will apply where such point is sought to be raised as an additional or collateral attack on a previous decision and the bringing forth of such ground amounts to misusing or abusing the process of the court or as a means for unjust harassment of a party. The relevant observations read as under:—

“Henderson v. Henderson abuse of process, as now understood, although separate and distinct from cause of action estoppel and issue estoppel, has much in common with them. The underlying public interest is the same : that there should be finality in litigation and that a party should not be twice vexed in the same matter. This public interest is reinforced by the current emphasis on efficiency and economy in the conduct of litigation, in the interests of the parties and the public as a whole. The bringing of a claim or the raising of a defence in later proceedings may, without more, amount to abuse if the court is satisfied (the onus being on the party alleging abuse) that the claim or defence should have been raised in the earlier proceedings if it was to be raised at all. I would not accept that it is necessary, before abuse may be found, to identify any additional element such as a collateral attack on a previous decision or some dishonesty, but where those elements are present the later proceedings will be much more obviously abusive, and there will rarely be a finding of abuse unless the later proceeding involves what the court regards as unjust harassment of a party. It is, however, wrong to hold that because a matter could have been raised in earlier proceedings it should have been,

so as to render the raising of it in later proceedings necessarily abusive. That is to adopt too dogmatic an approach to what should in my opinion be a broad, merits-based judgment which takes account of the public and private interests involved and also takes account of all the facts of the case, focusing attention on the crucial question whether, in all the circumstances, a party is misusing or abusing the process of the court by seeking to raise before it the issue which could have been raised before. As one cannot comprehensively list all possible forms of abuse, so one cannot formulate any hard and fast rule to determine whether, on given facts, abuse is to be found or not [...]"

(Emphasis supplied)

(ii) Lord Millett construing the Principle held that it does not belong to the doctrine of res-judicata in the strict sense but rather was analogous to the doctrine, as it goes a step further to encompass even those proceedings that either culminated into a settlement or issues which had never been adjudicated previously in order to protect the process of the court from abuse and the defendant from oppression. The relevant observations read as under:—

“As the passages which I have emphasised indicate, Sir James Wigram V-C did not consider that he was laying down a new principle, but rather that he was explaining the true extent of the existing plea of res judicata. Thus he was careful to limit what he was saying to cases which had proceeded to judgment, and not, as in the present case, to an out of court settlement. Later decisions have doubted the correctness of treating the principle as an application of the

doctrine of res judicata, while describing it as an extension of the doctrine or analogous to it ... But these various defences [res judicata, issue or cause of action estoppel] are all designed to serve the same purpose : to bring finality to litigation and avoid the oppression of subjecting a defendant unnecessarily to successive actions. While the exact relationship between the principle expounded by Sir James Wigram V-C and the defences of res judicata and cause of action and issue estoppel may be obscure, I am inclined to regard it as primarily an ancillary and salutary principle necessary to protect the integrity of those defences and prevent them from being deliberately or inadvertently circumvented.

In one respect, however, the principle goes further than the strict doctrine of res judicata or the formulation adopted by Sir James Wigram V-C, for I agree that it is capable of applying even where the first action concluded in a settlement. Here it is necessary to protect the integrity of the settlement and to prevent the defendant from being misled into believing that he was achieving a complete settlement of the matter in dispute when an unsuspected part remained outstanding.

However this may be, the difference to which I have drawn attention is of critical importance. It is one thing to refuse to allow a party to relitigate a question which has already been decided; it is quite another to deny him the opportunity of litigating for the first time a question which has not previously been adjudicated upon. This latter (though not the former) is *prima facie* a denial of

the citizen's right of access to the court conferred by the common law and guaranteed by article 6 ... While, therefore, the doctrine of res judicata in all its branches may properly be regarded as a rule of substantive law, applicable in all save exceptional circumstances, the doctrine now under consideration can be no more than a procedural rule based on the need to protect the process of the court from abuse and the defendant from oppression [...]"

(Emphasis supplied)

138. In *Virgin Atlantic Airways Ltd. v. Zodiac Seats UK Ltd.*, [2014] A.C. 160 Lord Sumption JSC further expounded the 'Henderson Principle' as although separate and distinct from cause of action estoppel or res judicata yet having the same underlying public interest that there should be finality in litigation and that a party should not be twice vexed in the same matter. The relevant observations read as under:—

“The principle in *Henderson v. Henderson* has always been thought to be directed against the abuse of process involved in seeking to raise in subsequent litigation points which could and should have been raised before. There was nothing controversial or new about this notion when it was expressed by Lord Kilbrandon in the *Yat Tung* case [1975] A.C. 581. The point has been taken up in a large number of subsequent decisions, but for present purposes it is enough to refer to the most important of them, *Johnson v. Gore-Wood & Co* [2002] 2 A.C. 1, in which the House of Lords considered their effect. This appeal arose out of an application to strike out proceedings on the ground that the plaintiffs claim should have been made in an earlier action on the same subject matter brought by a company under his control. Lord Bingham of Cornhill took up the earlier suggestion of Lord Hailsham of St Marylebone LC in *Vervaeke (formerly Messina) v. Smith* [1983] 1 A.C. 145, 157 that the principle

in *Henderson v. Henderson* was “both a rule of public policy and an application of the law of *res judicata*”. He expressed his own view of the relationship between the two at p. 31 as follows: “*Henderson v. Henderson* abuse of process, as now understood, although separate and distinct from cause of action estoppel and issue estoppel, has much in common with them. The underlying public interest is the same : that there should be finality in litigation and that a party should not be twice vexed in the same matter. This public interest is reinforced by the current emphasis on efficiency and economy in the conduct of litigation, in the interests of the parties and the public as a whole”.”

(Emphasis supplied)

139. Even in a common law action it was said by Blackburn, J.: “I incline to think that the doctrine of *res judicata* applies to all matters which existed at the time of giving of the judgment, and which the party had an opportunity of bringing before the Court.” [See : *Newington v. Levy*, [L.R.] 6 C.P. 180 (J)].

140. The fundamental policy of the law is that there must be finality to litigation. Multiplicity of litigation benefits not the litigants whose rights have been determined, but those who seek to delay the enforcement of those rights and prevent them from reaching the rightful beneficiaries of the adjudication. The Henderson Principle, in the same manner as the principles underlying *res judicata*, is intended to ensure that grounds of attack or defence in litigation must be taken in one of the same proceeding. A party which avoids doing so does it at its own peril. In deciding as to whether a matter might have been urged in the earlier proceedings, the court must ask itself as to whether it could have been urged. In deciding whether the matter ought to have been urged in the earlier proceedings, the court will have due regard to the ambit of the earlier proceedings and the nexus which the matter bears to the nature of the controversy. In holding that a matter ought to have been taken as a ground of attack or defence in the earlier proceedings, the court is indicating that the matter is of such a nature and character and bears such

a connection with the controversy in the earlier case that the failure to raise it in that proceeding would debar the party from agitating it in the future. The doctrine itself is based on public policy flowing from the age-old legal maxim *interest reipublicae ut sit finis litium* which means that in the interest of the State there should be an end to litigation and no party ought to be vexed twice in a litigation for one and the same cause.

141. The Henderson Principle was approvingly referred to and applied by this Court in *State of U.P. v. Nawab Hussain*, (1977) 2 SCC 806 as the underlying principle for *res-judicata* and constructive *res-judicata* for assuring finality to litigation. The relevant observations read as under:—

“3. The principle of estoppel per rem judicatam is a rule of evidence. As has been stated in *Marginson v. Blackburn Borough Council* [[1939] 2 K.B. 426 at p. 437], it may be said to be “the broader rule of evidence which prohibits the reassertion of a cause of action”. This doctrine is based on two theories : (i) the finality and conclusiveness of judicial decisions for the final termination of disputes in the general interest of the community as a matter of public policy, and (ii) the interest of the individual that he should be protected from multiplication of litigation. It therefore serves not only a public but also a private purpose by obstructing the reopening of matters which have once been adjudicated upon. It is thus not permissible to obtain a second judgment for the same civil relief on the same cause of action, for otherwise the spirit of contentiousness may give rise to conflicting judgments of equal authority, lead to multiplicity of actions and bring the administration of justice into disrepute. It is the cause of action which gives rise to an action, and that is why it is necessary for the courts to recognise that a cause of action which results in a judgment must lose its identity and vitality and merge in the judgment when pronounced. It cannot therefore survive the judgment, or give rise to another cause of action on the same facts. This is what is known as the general principle of *res judicata*.

4. But it may be that the same set of facts may give rise to two or more causes of action. If in such a case a person is allowed to choose and sue upon one cause of action at one time and to reserve the other for subsequent litigation, that would aggravate the burden of litigation. Courts have therefore treated such a course of action as an abuse of its process and Somervell, L.J., has answered it as follows in *Greenhalgh v. Mallard* [[1947] All ER 255 at p. 257]: "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.

This is therefore another and an equally necessary and efficacious aspect of the same principle, for it helps in raising the bar of *res judicata* by suitably construing the general principle of subduing a cantankerous litigant. That is why this other rule has some times been referred to as constructive *res judicata* which, in reality, is an aspect or amplification of the general principle."

(Emphasis supplied)

142. This Court in *Devilal Modi v. Sales Tax Officer, Ratlam*, AIR 1965 SC 1150, held that if the underlying rule 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 would be inconsistent with considerations of public policy. The relevant observations read as under:—

"8. [...] 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 [...]"

(Emphasis supplied)

143. In *Shankara Coop. Housing Society Ltd. v. M. Prabhakar*, (2011) 5 SCC 607, this Court held that the ground of non-compliance of statutory provision which was very much available to the parties to raise but did not raise it as one of the grounds, cannot be raised later on and would be hit by the principles analogous to constructive res judicata. The relevant observations read as under:—

“89. In the present case, it is admitted fact that when the contesting respondents filed WP No. 1051 of 1966, the ground of non-compliance with statutory provision was very much available to them, but for the reasons best known to them, they did not raise it as one of the grounds while challenging the Notification dated 11-12-1952 issued under the Evacuee Property Act. In the subsequent writ petition filed in the year 1990, initially, they had not questioned the legality of the notification, but raised it by filing an application, which is no doubt true, allowed by the High Court. In our view, the High Court was not justified in permitting the petitioners therein to raise that ground and answer the same since the same is hit by the principles analogous to constructive res judicata.”

(Emphasis supplied)

144. From the above exposition of law, it is clear that the ‘Henderson

Principle’ is a core component of the broader doctrine of abuse of process, aimed at enthralling in the parties a sense of sanctity towards judicial adjudications and determinations. It ensures that litigants are not subjected to repetitive and vexatious legal challenges. At its core, the principle stipulates that all claims and issues that could and should have been raised in an earlier proceeding are barred from being raised in subsequent litigation, except in exceptional circumstances. This rule not only supports the finality of judgments but also underscores the ideals of judicial propriety and fairness.

145. There are, four situations where in second proceedings between the same parties doctrine res judicata as a corollary of the principle of abuse of process may be invoked : (i) cause of action estoppel, where the entirety of a decided cause of action is sought to be relitigated; (ii) issue estoppel or, “decided issue estoppel,” where an issue is sought to be relitigated which has been raised and decided as a fundamental step in arriving at the earlier judicial decision; (iii) extended or constructive res judicata i.e., “unraised issue estoppel,” where an issue is sought to be litigated which could, and should, have been raised in a previous action but was not raised; (iv) a further extension of the aforesaid to points not raised in relation to an issue in the earlier decision, as opposed to issues not raised in relation to the decision itself.

146. As part of the broader rule against abuse of process, the Henderson principle is rooted in the idea of preventing the judicial process from being exploited in any manner that tends to undermine its integrity. This idea of preventing abuse of judicial process is not confined to specific procedure rules, but rather aligned to a broader purport of giving quietus to litigation and finality to judicial decisions. The essence of this rule is that litigation must be conducted in good faith, and parties should not engage in procedural tactics that fragment disputes, prolong litigation, or undermine the outcomes of such litigation. It is not a rigid rule but rather a flexible principle to prevent oppressive, unfair, or detrimental litigation.

147. We are conscious of the fact, that ordinarily this principle has been applied to instances where a particular plea or ground was not raised at any stage of the proceedings, but were later sought to be raised. However,

it must be borne in mind that construing this rule in a hyper-technical manner or through any strait-jacket formula will amount to taking a reductive view of this broad and comprehensive principle.

148. Although in the present case, the Borrower had raised the issue of the validity of the measures taken by the Bank under the SARFAESI Act and the legality of the 9th auction conducted it in the earlier stages albeit in a different proceeding, yet its conduct of having conveniently abandoned the same in a different proceeding elected by it for the same cause of action and then later reagitating it in the pretence that the two proceedings were distinct, is nothing but a textbook case of abuse of process of law.

149. Piecemeal litigation where issues are deliberately fragmented across separate proceedings to gain an unfair advantage is in itself a facet of abuse of process of law and would also fall foul of this principle. Merely because one proceeding initiated by a party differs in some aspects from another proceeding or happens to be before a different forum, will not make the subsequent proceeding distinct in nature from the former, if the underlying subject matter or the seminal issues involved remains substantially similar to each other or connected to the earlier subject matter by a certain degree, then such proceeding would tantamount to 'relitigating' and the Henderson Principle would be applicable."

27. Applying the aforesaid principle to the instant case, this Court finds that the issues sought to be raise by the appellant were already considered and merely by raising certain issues which though stemmed from the cause of action which was already available and availed by the appellant and having lost, making the said orders final cannot now be permitted to be raised.

28. The appellant who appears in person could not demonstrate as to how the judgment passed by the learned Single Judge dismissing his writ petitions are bad especially when the issues sought to be raised were already considered and have been turned down with the dismissal of writ petitions vide order dated 11.05.2022 which were affirmed in the Special Appeal No.320 of 2022.

29. For the aforesaid reasons, this Court finds that there is no error in the judgment of the learned Single Judge dated 03.10.2023 passed in Writ-A

Nos.7557 of 2022 and 8096 of 2022. Accordingly, the instant intra court appeals are devoid of merits and are dismissed. The Court refrain from imposing any cost on the appellant.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

November 14, 2025

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