

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA
CWP No. 4678 of 2025.
Decided on : 16th July, 2026.

Vijay Kumar Bansal

...Petitioner.

Versus

H.P. State Civil Supplies Corporation Ltd.

....Respondents.

Coram:

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

*Whether approved for reporting?*¹ Yes.

For the Petitioner: Mr. H.K. Paul and Mr. Arun Kumar,
Advocates.

For the respondent: Mr. Prashant Sharma, Advocate.

Ajay Mohan Goel, Judge (Oral).

By way of present petition, the petitioner has, inter alia,
prayed for following reliefs:-

"A. That the respondents may kindly be directed to consider the applicant for promotion to the post of Senior Assistant (Accounts) for which respondent even called for the option from the petitioner and such option was also given by the petitioner. After such promotion being given from due date, the petitioner may also be held entitled to get arrears of pay and allowances and other consequential benefits increment, pension and other retiral benefits in the interest of justice.

B. The arrears on account of family planning ex-gratia gratuity, leave encashment and balance amount of leave encashment

¹ Whether reporters of the local papers may be allowed to see the judgment?

may kindly be directed to be paid to the petitioner along-with interest.

C. The respondents may kindly be directed to correctly workout the duty period of the petitioner in accordance with law and the same may be directed to be paid to the petitioner.

D. The suspension periods may kindly be counted for all intent and purposes, in letter and spirit and consequential benefits thereto, such as, pay fixation, increments, pension, arrears etc. may kindly be released to the petitioner accordingly.

E. That the respondents may kindly be directed to consider the petitioner for the benefits under the Assured career Progression Scheme from due date and to pay arrears with all consequential benefits in the interest of justice.

F. The respondents may kindly be directed to pay arrears of the dues payable to the petitioner and petitioner be held entitled to interest @ 18% P.A. and costs in the interest of justice."

2. On the last date of hearing, learned counsel for the petitioner was called upon to assist the Court on the issue of maintainability of the writ petition. This was in the light of the preliminary objection taken by learned counsel for the respondent, who pointed out that earlier also, the petitioner had approached this Court by way of CWPOA No. 125 of 2019, titled *Vipin Kumar Bansal versus H.P. State Civil Supplies Corporation Ltd.*, and said writ petition was disposed of as not pressed, in terms of order dated 10.12.2021,

without any liberty to file a fresh on the same cause subsequently. The reliefs claimed for by the petitioner in this writ petition have been quoted by me herein above.

3. Learned counsel for the respondent has made available for the perusal of the Court, the earlier original application filed by the present petitioner, which, after the closure of the erstwhile Himachal Pradesh Administrative Tribunal, was transferred to this Court and registered as CWPOA No. 125 of 2019. In the said original application/CWPOA No. 125 of 2019, the petitioner had prayed for the following reliefs:-

"i) The Respondent may kindly be directed to consider the applicant for promotion to the post of Senior Assistant (Accounts) for which the Respondent even called for the option from the applicant and such option was also given by the applicant. After such promotion being given from due date. the applicant may also be held entitled to get arrears of pay and allowances and other consequential benefits:

ii) The arrears on account of family planning. ex-gratia, gratuity. leave encashment and balance amount of leave encashment may kindly be directed, or be paid to the applicant along Interest @18% P.A.

iii) The suspension period of 324 days (4-10-2006 to 23-8-2007) during which the applicant faced criminal trial may

please be directed to be duty period and counted for qualifying service for retiral benefits. The arrears on account of reinstatement after revocation of suspension for the said period may also be directed to be paid alongwith increments and arrears of pay and allowances:

iv) The Respondent may kindly be directed to consider the applicant for the benefits under the Assured arrier Progression Scheme from due date and to pay arrears with all consequential benefits in the interest of justice:"

4. A perusal of the reliefs prayed for in the present writ petition and in the earlier original application demonstrates that the reliefs prayed therein were the same as are being prayed in this writ petition. The earlier writ petition was closed by the Court in terms of order dated 10.12.2021, which reads as under:

"Learned counsel for the petitioner states that since claims of the petitioner have been settled, therefore, he is under instructions not to press the instant petition. His statement is taken on record.

2. In view of above, the instant petition is disposed of, as not pressed, so also the pending application(s), if any."

5. A perusal of this order demonstrates that it was stated before the Hon'ble Division Bench of this Court by the learned counsel for the petitioner that as the claims of the petitioner had

been settled, therefore, he had instructions not to press the instant petition. The petition was thus dismissed/disposed of, as not pressed.

6. It is not understood that if earlier, a statement was made on behalf of the petitioner that his claims stood settled, then what has occasioned the filing of a fresh writ petition praying for the same relief? Even if it is to be assumed, as has been urged at the Bar by the learned counsel for the petitioner, that payments were not released in favour of the petitioner, then also the petitioner was supposed to approach this Court on the said subsequent cause, and not on the causes on which the earlier writ petition was filed by the petitioner. In the absence of any liberty being taken by the petitioner, while not pressing the earlier writ petition, to approach the Court again on the same cause, the petitioner is estopped from filing a fresh writ petition on the same cause. This is more so in the light of the law declared by the Hon'ble Supreme Court in ***Sarguja Transport Service vs. State Transport Appellate Tribunal Gwalior***

and others, AIR 1987, SC 88 in which the Hon'ble Supreme Court has been pleased to hold as under:

"9. The point for consideration is whether a petitioner after withdrawing a writ petition filed by him in the High Court under [Article 226](#) of the Constitution of India without the permission to institute a fresh petition can file a fresh writ petition in the High Court under that Article. On this point the decision in [Daryao's](#) case (supra) is of no assistance. But we are of the view that the principle underlying rule 1 of Order XXIII of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under [Article 226](#) of the Constitution once again. While the withdrawal of a writ petition filed in a High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under [Article 32](#) of the Constitution of India since such withdrawal does not amount to res judicata, the remedy under [Article 226](#) of the Constitution of India should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission. In the instant case the High Court was right in holding that a fresh writ petition was not maintainable before it in respect of the same subject-matter since the earlier writ

petition had been withdrawn without permission to file a fresh petition. We, however, make it clear that whatever we have stated in this order may not be considered as being applicable to a writ petition involving the personal liberty of an individual in which the petitioner prays for the issue of a writ in the nature of habeas corpus or seeks to enforce the fundamental right guaranteed under Article 21 of the Constitution since such a case stands on a different footing altogether. We however leave this question open."

7. Therefore, in the light of the above observations, this writ petition is dismissed as not maintainable. However, it is clarified that if after the withdrawal of the earlier writ petition in the year 2021, some subsequent cause of action has arisen in favour of the petitioner, then he may approach the Court afresh on those subsequent causes, if so advised, in accordance with law. Pending applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

16th July, 2026.
(jai)