



2026:AHC:1285

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 14148 of 2025

Krishna Kant

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prem Prakash
Counsel for Respondent(s)	:	C.S.C., Sunil Kumar Dubey

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State, Sri Ashish Kumar Nagvanshi, learned counsel for respondent no.3 and perused the record.
2. The petitioner has preferred instant writ petition challenging an order / recovery certificate dated 19.08.2025 issued by respondent no. 3, whereby recovery of Rs. 71,10,614/- has been ordered against the petitioner.
3. The order under challenge is a consequential order passed pursuant to the termination order dated 04.07.2025, by which appointment of the petitioner was declared void ab initio with effect from the date of his initial appointment i.e. 31.03.1998. The said order has already been assailed by the petitioner by means of Writ-A No. 10029 of 2025 (Krishna Kant v. State of U.P. and 2 Others), which came to be dismissed by this Court vide judgement and order dated 17.10.2025. The petitioner has preferred Special Appeal No. 1138 of 2025, challenging the aforesaid order dated 17.10.2025, which is still pending.
4. The writ petition earlier filed by the petitioner challenging the order cancelling his appointment has already been dismissed and the subsequent order directing recovery of the salary paid to the petitioner is merely consequential in nature and does not give rise to any fresh or independent cause of action. A writ petition assailing such a consequential order would, therefore, amount to re-agitation of the very same issue and a second round of litigation, which is impermissible in law.

5. In a catena of judgements, the Supreme Court has categorically held that where a party had an opportunity to raise a ground in earlier proceedings but failed to do so, the principle of constructive res judicata would apply, and a subsequent petition on the same cause or consequential relief would not be maintainable. Reference may be made to the judgements in the cases of **State of Uttar Pradesh v. Nawab Hussain, (1977) 2 SCC 806** and **Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra and others, (1990) 2 SCC 715**. In the case of **K.K. Modi v. K.N. Modi and others, (1998) 3 SCC 573**, also, the Apex Court has deprecated repeated litigation on the same subject matter and held that such practice amounts to abuse of the process of the Court. Even otherwise, the original order passed by the authority has already been challenged by the petitioner by filing a Special Appeal, which is admittedly pending consideration. During the pendency of the Special Appeal, parallel proceedings seeking substantially the same relief are barred. In the case of **Commissioner of Income Tax v. M/s. Chhabil Dass Agarwal, (2014) 1 SCC 603**, the Supreme Court has held that where a statutory or appellate remedy is being pursued, a writ petition is ordinarily not maintainable.

6. In view of the settled legal position and the pendency of the Special Appeal, once the principal relief is declined, no independent relief can be claimed on the basis of a consequential or ancillary order in the present writ petition. Thus, the writ petition preferred against the order impugned is not maintainable. It is dismissed accordingly. Interim order granted earlier stands discharged.

7. No order as to costs.

January 6, 2026

DS

(Mrs. Manju Rani Chauhan,J.)