



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 07<sup>th</sup> JANUARY, 2026

IN THE MATTER OF:

+ **LPA 1189/2024, CM APPL. 72010/2024**

JITENDER YADAV

.....Appellant

Through: Ms. Esha Mazumdar & Ms. Anushka  
Gupta, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sandeep Kumar Mahapatra, Ms.  
Mrinmayee Sahu and Mr. Tribhuvan,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**HON'BLE MR. JUSTICE VIMAL KUMAR YADAV**

**JUDGMENT**

**SUBRAMONIUM PRASAD, J.**

1. The Appellant has preferred the present Appeal aggrieved by the Judgement dated 19.09.2024 in Jitender Yadav vs. Union of India and Ors., W.P. (C) No. 12014 of 2015 (*hereinafter referred to as 'Impugned Judgement'*) wherein this Court dismissed the Writ Petition filed by the Appellant for quashing of impugned final result dated 06.11.2013 regarding selection/appointment of the Respondent No. 3 therein under OBC category as Staff Car Driver (Ordinary Grade) vide Advertisement No. 01/2011, and, to pass an order in nature of mandamus directing Respondent No. 1 and 2 to declare the Appellant as selected under OBC category and appoint the Appellant as Staff Car Driver (Ordinary Grade) with all consequential benefits including seniority and arrears of pay.



2. Shorn of unnecessary details, the facts leading to the filing of the present appeal are as follows:

- a. Union of India/Respondent No. 1 and Rajya Sabha Recruitment Cell/Respondent No. 2 (*hereinafter referred to as 'Official Respondents'*) invited applications for the post of Staff Car Driver (Ordinary Grade) under Category VI *vide* Advertisement No. 01/2011, which included reserved category seats - 01 in SC, 01 in OBC, and 01 in UR category.
- b. The Appellant applied for the post of Staff Car Driver under the OBC category and appeared for the written examination in June, 2013.
- c. Respondent No. 2 declared the final result on 06.11.2013. Mr. Tej Pal/Respondent No. 3 was the top scorer in the OBC category with 163 marks securing the position in the OBC quota. The Appellant scored 158.75 marks, securing the spot below Mr. Tej Pal/Respondent No.3. Another candidate Mr. Bhim Singh scored 154 marks and was selected under the UR category.
- d. In November, 2013, the Appellant filed W.P.(C) 7500/2013 before this Court on the ground that Respondent No. 3 should have been adjusted against the UR category vacancy based on merit, despite him applying under the OBC category. Hence, the Appellant sought his own selection and appointment against the OBC vacancy and asserted that the appointment of Bhim Singh under the UR vacancy is bad in law.



- e. The Appellant then filed an application under the Right to Information Act, 2005 (RTI) seeking the caste certificate of Respondent No. 3 which was later provided to the Appellant. On 23.12.2013, the Appellant submitted a representation to the Respondents requesting recommendation of his name under OBC category instead of Respondent No. 3 since as per the Appellant the Respondent No. 3 was ineligible for appointment against OBC vacancy as he did not possess the requisite OBC certificate as per the advertisement.
- f. The Appellant filed W.P.(C) No. 5243/2014 before this Court seeking appointment under OBC category after being apprised that the Respondent No. 3 did not possess a valid OBC certificate. The Writ Petition was dismissed as withdrawn *vide* an Order dated 20.08.2014 with directions to the official Respondents to take appropriate steps pursuant to the final result declared on 06.11.2013.
- g. This Court *vide* Order dated 24.08.2015 allowed W.P.(C) No. 7500/2013 and held that Respondent No.3, should have been adjusted against the UR vacancy and not against the OBC vacancy. The OBC vacancy should have been filled by the Appellant as the next available OBC candidate. The final result dated 06.11.2013 was set aside to the extent of the appointment of Respondent No.3 and Bhim Singh.
- h. This Order dated 24.08.2015 was challenged by the Official Respondents in 'Rajya Sabha Recruitment Cell and Anr. vs. Jitender Yadav and Ors.', LPA No. 696/2015. On 7.10.2016,



this Court allowed the said appeal filed by the Official Respondents. This Court held that Respondent No. 3 was eligible for the appointment under OBC category on account of availing age relaxation. It was held that his appointment was valid against the OBC vacancy. The judgment dated 24.08.2015 in W.P.(C) No. 7500/2013 was set aside.

- i. The Appellant filed W.P.(C) No. 12014/2015 seeking quashing of the final result dated 06.11.2013 concerning the selection and appointment of the Respondent No.3 under OBC category. This Court dismissed the said writ petition of the Appellant *vide* Order dated 19.09.2024, observing that the issue of Respondent No.3's appointment under the OBC category had already been settled by the Division Bench decision in LPA No. 696/2015 which had attained finality. The Court also held that the Reserve List of Candidates who took the exam cannot be operated and thus the Appellant cannot claim appointment against the OBC vacancy as such unfilled vacancies are carried forward to the next year.
  - j. It is this Order dated 19.09.2024 that has been challenged by the Appellant by way of filing the present appeal.
3. The Counsel for the Appellant states that it is well settled law that no ineligible candidate should be considered for selection since they cannot be appointed to the post even after their selection. He states that that the appointment of the next eligible candidate is certain. The Counsel tenders the decision of Apex Court in DSSSB vs. Lokesh Kumar, **W.P.(C) No.**



**5236/2012** dated 07.03.2013 stating that this case squarely covers the case of the Appellant.

4. It is the case of the Appellant that the Learned Single Judge failed to appreciate that the issue in LPA No. 696/2015 pertained to the shifting of category from OBC to UR and not the eligibility of Respondent No. 3 under the OBC category. As per the Counsel for the Appellant, in the said LPA, it was held that the Respondent No. 3's appointment under the OBC category was correct since he had availed age relaxation under the said category. However, the judgment did not examine or adjudicate upon the validity of his OBC certificate or his eligibility under the said category.

5. It is the case of the Appellant that the Learned Single Judge failed to appreciate the appointment of Respondent No. 3 was *void ab initio* as the certificate of Respondent No. 3 itself was not valid. He submits that the Respondent's stand that the reserve list cannot be operated, based on the fact that SSC does not maintain a reserve list for open competitive examinations is erroneous and contrary to settled law. The Counsel tenders the judgment in Union of India vs. Shrey Bajaj, **W.P.(C) No. 11739/2016** to support its arguments.

6. The Counsel further states that the Learned Single Judge did not consider the Order dated 20.08.2014 in W.P.(C) No. 5243/2014 as well as the Order dated 07.08.2015 in C.M. No. 21286/2014, wherein this Court granted liberty to the Appellant to challenge the decisions of Respondent No. 1 and 2, both in law and on facts, in accordance with law.

7. It is the case of the Appellant that once the name of the Appellant was shown in the list of reserve panel, the principle of legitimate expectation is attracted and so he had a legitimate right of consideration for appointment.



8. The Counsel for the Appellant tendered various judgments to support its case namely Dinesh Kumar Kashyap & Ors. vs. South East Central Railways & Ors. in Civil Appeal No. 11360-11363/2018, Gagandeep Singh vs. State of Punjab & Ors. (2019) 11 SCC 771, and Shiv Krishna Garg vs. High Court of Madhya Pradesh in W.P.(C) 4792/2020.

9. *Per contra*, the Counsel for the Union of India contends that the Appeal is not maintainable and is liable to be dismissed as the Appellant is seeking to reopen and reagitate the issues which have already attained finality.

10. The Counsel for the Official Respondents state that as per the extant policy, if an offer of appointment made to any recommended candidate is cancelled either because the candidate is not found eligible for the post in any respect or for any other reason, the vacancy so caused is not filled by the results of that examination. It is carried forward to subsequent recruitment year and, therefore, if the offer made to Respondent No. 3 is cancelled either because he is ineligible for appointment against a vacancy reserved for OBC or otherwise, the vacancy so caused shall not be filled on the basis of the results of 2011 recruitment but would be carried forward to the subsequent recruitment year. It is further stated that the post was advertised vide Advertisement No. 01/2011 and had been frozen till the pendency of LPA No. 696/2015, hence, the said vacancy was not carried forward for filling up through next recruitment drive advertised vide Advertisement No. 01/2016.

11. The candidature of Respondent No.3 was cancelled on 19.05.2017 as he failed to submit his caste certificate in the required format as directed vide OM dated 26.10.2016. Pursuant to cancellation of candidature of



Respondent No. 3, the vacancy was then carried forward for being filled in the next recruitment cycle as per the then extant policy.

12. It is thus the case of the Official Respondents that once the candidature of Respondent No. 3 was cancelled, the vacancy was carried forward to next recruitment cycle without filling up the same from any reserve list. The decision dated 23.01.2015 of the Official Respondents not to maintain a reserve panel and to carry forward unfilled vacancies for being filled in the next recruitment year was never challenged by the Appellant in earlier writ petitions and the said decision is not open to challenge at this stage of litigation.

13. The relief sought by the Appellant in the present Appeal cannot be granted as the same will have the effect of setting aside the judgment of the Co-ordinate Bench of this Court. The issue regarding appointment of the Appellant had attained finality and cannot be re-opened in the present round.

14. Heard the Counsel for both the sides, and perused the material on record.

15. In the opinion of this Court, the learned Single Judge has correctly noted that the challenge to appointment of Respondent No. 3 was conclusively determined by the Division Bench in LPA 696/2015. The subject matter, i.e., the eligibility of the Appellant to hold the OBC seat under the same advertisement stood adjudicated. The earlier round of litigation was squarely concerned with the validity of selection of Respondent No. 3 under the OBC category, which is the very issue sought to be reopened now. Judicial finality attaches not only to what was expressly decided, but also to what might and ought to have been raised in the earlier



proceedings. The Apex Court in Sulthan Said Ibrahim v. Prakasan & Ors, 2025 SCC OnLine SC 1218, has held as under:

*“53. The High Court, in its impugned order, held the application of the appellant under Order I Rule 10 to be barred by res judicata and thus not maintainable on that ground. We find no infirmity in the said observation mad by the High Court. This Court in Bhanu Kumar Jain v. Archana Kumar reported in (2005) 1 SCC 787 observed that the principles of res judicata apply not only to two different proceedings but also to different stages of the same proceeding as well. The relevant observations are reproduced hereinbelow:*

*“18. It is now well settled that principles of res judicata apply in different stages of the same proceedings. (See Satyadhyan Ghosal v. Deorajin Debi [AIR 1960 SC 941 : (1960) 3 SCR 590] and Prahlad Singh v. Col. Sukhdev Singh [(1987) 1 SCC 727].)*

*19. In Y.B. Patil [(1976) 4 SCC 66] it was held : (SCC p. 68, para 4)*

*“4. ... It is well settled that principles of res judicata can be invoked not only in separate subsequent proceedings, they also get attracted in subsequent stage of the same proceedings. Once an order made in the course of a proceeding becomes final, it would be binding at the subsequent stage of that proceeding.”*

xxx xxx xxx

*21. Yet again in Hope Plantations Ltd. [(1999) 5 SCC 590] this Court laid down the law in the following terms : (SCC p. 604, para 17)*

*“17. ... 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.”” (Emphasis supplied)

54. Thus, as the dictum of the law as extracted aforesaid indicates, the only manner in which a decision arrived at by a court of competent jurisdiction can be interfered with is by modification or reversal by the appellate authorities. In the present case, the order for impleadment of the appellant as a legal heir was made by the Trial Court after due inquiry under Order XXII, as also observed by the Trial Court in its order rejecting the application under Order I Rule 10. Evidently, neither any objection was raised by the appellant before the Trial Court nor any revision was preferred subsequently against the said order. Thus, it could be said that the issue as regards the impleadment of the appellant as a legal heir of the original defendant had attained finality between the parties and thus the subsequent application under Order I Rule 10 seeking to get his name deleted from the array of parties could be said to be barred by *res judicata*. Undoubtedly, the expression “at any stage of the proceedings” used in Order I Rule 10 allows the court to exercise its power at any stage, however the same cannot be construed to mean that the defendant can keep rearguing the same objection at different stages of the same proceeding, when the issue has been determined conclusively at a previous stage. Allowing the same would run contrary to the considerations of fair play and justice and would amount to keeping the parties in a state of limbo as regards the adjudication of the disputes.



55. This Court in the case of *Satyadhyan Ghosal v. Deorajin Debi* reported in (1960) 3 SCR 590, has noted that the principle of *res judicata* is essential in giving a finality to judicial decisions. The relevant observations are reproduced hereinbelow:

“The principle of *res judicata* is based on the need of giving a finality to judicial decisions. What it says is that once a *res* is *judicata*, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation. When a matter — whether on a question of fact or a question of law — has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again. This principle of *res judicata* is embodied in relation to suits in Section 11 of the Code of Civil Procedure; but even where Section 11 does not apply, the principle of *res judicata* has been applied by courts for the purpose of achieving finality in litigation. The result of this is that the original court as well as any higher court must in any future litigation proceed on the basis that the previous decision was correct. The principle of *res judicata* applies also as between two stages in the same litigation to this extent that a court, whether the trial court or a higher court having at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings. ...”

(Emphasis supplied)

56. This Court in *S. Ramachandra Rao v. S. Nagabhushana Rao* reported in 2022 SCC OnLine SC 1460 observed that although a decision may be



*erroneous, yet it would bind the parties to the same litigation and concerning the same issue, if it is rendered by a court of competent jurisdiction. The observations read thus:*

*“31. For what has been noticed and discussed in the preceding paragraphs, it remains hardly a matter of doubt that the doctrine of res judicata is fundamental to every well regulated system of jurisprudence, for being founded on the consideration of public policy that a judicial decision must be accepted as correct and that no person should be vexed twice with the same kind of litigation. This doctrine of res judicata is attracted not only in separate subsequent proceedings but also at the subsequent stage of the same proceedings. Moreover, a binding decision cannot lightly be ignored and even an erroneous decision remains binding on the parties to the same litigation and concerning the same issue, if rendered by a Court of competent jurisdiction. Such a binding decision cannot be ignored even on the principle of per incuriam because that principle applies to the precedents and not to the doctrine of res judicata.”*

*57. A five-Judge Bench of the Calcutta High Court in Tarini Charan Bhattacharya v. Kedar Nath Haldar reported in 1928 SCC OnLine Cal 172 considered the question as regards whether an erroneous decision on a point of law would operate as res judicata between the parties or not. The court inter alia observed that it is not always open to the party to raise a point of law. It further held that Section 11 of the CPC makes the decision of the court conclusive between the parties notwithstanding the reasoning employed by the court in arriving at the said decision. The relevant observations are as under:*

*“(1) The question whether a decision is correct or erroneous has no bearing upon the question*



Whether it operates or does not operate as res judicata. The doctrine is that in certain circumstances the Court shall not try a suit or issue but shall deal with the matter on the footing that it is a matter no longer open to contest by reason of a previous decision. In these circumstances it must necessarily be wrong for a Court to try the suit or issue, come to its own conclusion thereon, consider whether the previous decision is right and give effect to it or not according as it conceives the previous decision to be right or wrong. To say, as a result of such disorderly procedure, that the previous decision was wrong and that it was wrong on a point of law/or on a pure point of law, and that therefore it may be disregarded, is an indefensible form of reasoning. For this purpose, it is not true that a point of law is always open to a party.

(2) In India, at all events, a party who takes a plea of res judicata has to show that the matter directly and substantially in issue has been directly and substantially in issue in the former suit and also that it has been heard and finally decided. This phrase “matter directly and substantially in issue” has to be given a sensible and businesslike meaning, particularly in view of Expl. 4 to sec. 11 of the Code of Civil Procedure which contains the expression “grounds of defence or attack.” Sec. 11 of the Code says nothing about causes of action, a phrase which always requires careful handling. Nor does the section say anything about point or points of law, or pure points of law. As a rule parties do not join issue upon academic or abstract questions but upon matters of importance to themselves. The section requires that the doctrine be restricted to matters in issue and of these to matters which are directly as well as substantially in issue.



*(3) Questions of law are of all kinds and cannot be dealt with as though they were all the same. Questions of procedure, questions affecting jurisdiction, questions of limitation, may all be questions of law. In such questions the rights, of parties are not the only matter for consideration. The Court and the public have an interest. When a plea of res judicata is raised with reference to such matters, it is at least a question whether special considerations do not apply.*

*(4) In any case in which it is found that the matter directly and substantially in issue has been directly and substantially in issue in the former suit and has been heard and finally decided by such Court, the principle of res judicata is not to be ignored merely on the ground that the reasoning, whether in law or otherwise, of the previous decision can be attacked on a particular point. On the other hand it is plain from the terms of sec. 11 of the Code that what is made conclusive between the parties is the decision of the Court and that the reasoning of the Court is not necessarily the same thing as its decision. The object of the doctrine of res judicata is not to fasten upon parties special principles of law as applicable to them inter se, but to ascertain their rights and the facts upon which these rights directly and substantially depend; and to prevent this ascertainment from becoming nugatory by precluding the parties from re-opening or recontesting that which has been finally decided.”  
(Emphasis supplied)”*

16. Explanation IV to Section 11 of the Code of Civil Procedure, 1908, further strengthens the operation of *res judicata*, which is as under:

“Section 11. *Res judicata*.



*No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.*

.....

*Explanation IV.-- Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.”*

17. Even otherwise, a candidate in a panel or waitlist does not have a right to appointment. He merely acquires a right to be considered in accordance with rules, subject to availability of vacancy and subject to no legal impediment. Since Respondent No. 3's selection attained finality, no vacancy survived for the Appellant to stake claim upon.

18. The challenge raised by the Appellant is barred by *res judicata*, and more importantly, by constructive *res judicata*. The Appellant had ample opportunity in earlier proceedings but failed to raise the objections he now presses. The law does not permit litigants to reopen matters in instalments. The learned Single Judge rightly refused to disturb the concluded appointment of Respondent No. 3. We find no infirmity in the impugned judgment.

19. The judgments tendered by the Learned Counsel for the Appellant are not applicable to the present facts of the Appeal due to constructive *res judicata* barring the Appellant to reagitate the issues which already stands adjudicated in LPA 696/2015.



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20. The present Appeal is accordingly dismissed, along with pending application(s), if any.

**SUBRAMONIUM PRASAD, J**

**VIMAL KUMAR YADAV, J**

**JANUARY 07, 2026**  
**MT**