

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 1672 of 1990 (O&M)
Date of decision:- 18.03.2015

Ranjit Singh

Versus

...Appellant

State of Punjab through Collector Gurdaspur and anr. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. T.S. Hundal, Advocate
for the appellant.

Mr. Vaibhav Sharma, DAG, Punjab

RITU BAHRI J.

This regular second appeal is against the judgment and decree dated 22.03.1990 passed by learned Addl. District Judge, Gurdaspur whereby the appeal filed by the defendants-respondents (for brevity 'the respondents') was partly allowed, which was against the judgment and decree dated 12.06.1989 passed by learned Sub Judge Ist Class, Gurdaspur.

The appellant was working as Conductor in the Punjab Roadways. General Manager, Punjab Roadways, Pathankot had passed three orders dated 04.06.1971, 25.06.1972 and 15.11.1972 stopping one increment each with cumulative effect of the plaintiff-appellant (for short 'the appellant'). The appellant challenged the above said orders before the trial Court on the ground that these orders were never served upon the appellant but in-spite of this, he gave replies to the show cause notices, which were not

considered and no departmental enquiry was conducted before imposing the penalties. The appellant further sought a decree to the effect with a consequential relief of mandatory injunction directing the respondents to release the arrears of his pay as if the said orders had not been passed.

The respondents contested the suit and raised the preliminary objection that the suit is barred by limitation as the suit impugned orders were passed in the year 1971 and 1972 whereas the suit was filed in the year 1987 and the Civil Court has no jurisdiction to try the suit and the respondents have admitted that the appellant was working as conductor with them and one increment was stopped, which was in accordance with the law and allegations levelled by the appellant were denied.

The trial Court examined the enquiry report and found that no official of the Roadways had appeared as witness in the enquiry. The solitary statement of the appellant was believed as there was no rebuttal to it and the suit of the appellant was decreed by the trial Court by holding that the impugned orders are illegal, null and void and are not binding on the rights of the appellant.

Feeling aggrieved against the judgment and decree passed by the trial Court, the respondents preferred an appeal and the lower Appellate Court partly accepted the appeal by dismissing the judgment of the trial Court as

regards orders dated 04.06.1971 and 26.05.1972 by holding that the appellant should have filed the suit within three years and the suit of the appellant was dismissed. However, a decree is granted to the effect that order dated 15.11.1972 is void and not binding upon the appellant, as it was filed within time. He would, however, be held entitled to arrears of pay only for a period of three years proceeding from the date of filing of the suit.

The respondents have not come up in appeal against the order passed by the learned lower Appellate Court, in view of the judgment Hon'ble the Supreme Court in a case of State of Punjab and others vs. Gurdev Singh and Ashok Kumar, 1991(3) S.C.T 91 whereby it was held that the limitation is of 03 years will be applicable even in case of a void order.

The judgment and decree dated 22.03.1990 passed by learned Addl. District Judge, Gurdaspur does not suffer from any infirmity. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed

March 18, 2015
G Arora

(RITU BAHRI)
JUDGE