

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No. 2033 of 1991 (O&M)

Date of decision: December 19, 2015

The State of Punjab

...Appellant

Versus

Swaran Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

- 1. Whether Reporters of local papers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. Nilesh Bhardwaj, DAG, Punjab,
for the appellant.

Mr. Gaurav Chopra, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The appeal has been admitted without framing substantial question of law and therefore, the following substantial question is framed:-

“Whether the suit challenging the punishment imposing withdrawal of annual increment cumulatively for two years through an order issued on 19.8.1983 is not barred by the limitation by a suit instituted on 21.8.1987?

2. Both the counsel who were prepared to argue the case on the formulation made and I have proceeded to hear the case.

3. The learned counsel for the State relies on a judgment of the Supreme Court in the State of Punjab and others Versus Gurdev Singh and Ashok Kumar 1992 AIR (SC) 111, where the Court was considering that

Article 113 of the Limitation Act would be applicable in a case where an order of the State terminating an employee was null and void and that the suit should be filed within a period of three years from the date of termination. The counsel would argue that the said proposition would apply also to an order withdrawing annual increments.

4. Learned counsel for the respondent counters this argument to state that an order of dismissal operates as *terminus quo* of the relationship between the master and servant and, therefore, the limitation would commence from the date when an employee is prevented from joining the service. On the other hand, withdrawal of annual increment that was issued through an order 19.8.1983 could arise only from the date when the next increment was due and it would have a cascading affect for rest of the years and the suit will be competent to challenge the affect of the order that denies an entitlement. In this case, according to the learned counsel for the respondent, the order of penalty itself was not served, as indeed found by the two courts below, in the manner required under Rule 22 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. In Makhan Singh Versus The State of Punjab and others 2009 (3) S.C.T. 123, this Court, while referring to the aforesaid rule, held that an order resulting in reduction of pay that would adversely affect the pay of an employee is a recurring cause of action and the limitation to challenge such an order would not start from the date when the same was issued, but would commence from the date of service of notice in terms of Rule 22. To the same effect was the view of this court in the earlier judgment in Malkiat Singh Versus State of Haryana 2007 (4) S.C.T. 801.

5. Even while holding that the suit was not barred by limitation, I will restrict the benefit of all the relief to the plaintiff to the period of 38 months prior to the institution of the suit and for the period from the date of order notional increment shall be given but the actual benefit will accrue only for the period, referred to above.

6. With this modification, the decision of the Appellate Court is confirmed and the appeal is disposed of on the above terms.

December 19, 2015
prem

(K.KANNAN)
JUDGE