

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

**RSA No. 4839 of 2012 (O&M)
Date of decision : 30.07.2015**

Sahib Singh ...Appellant

versus

U.O.I and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikas Singh, Advocate
for the appellant

RITU BAHRI , J.

C.M. No. 13498-C of 2015

For the reasons mentioned in the application, delay of 91 days in re-filing the present appeal is condoned.

The application stands disposed of accordingly.

R.S.A No. 4839 of 2012

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiff-appellant(herein after to be referred as 'the appellant') was dismissed.

Brief facts of the case are that the appellant was employee of the respondent-department and he along with constable Randhir Singh was charge sheeted under Section 11(1) of C.R.P.F Act, 1949 read with Rule 27(d)(1) of C.R.P.F Rules, 1955, vide order dated 30.05.1996. Umesh Singh was appointed as Enquiry Officer by order dated 30.05.1996 (Ex D3). In the enquiry statements of seven witnesses which were recorded, an opportunity was given to the appellant to cross examine those witnesses. The Punishing Authority had also given opportunity of personal hearing to the appellant and was given 15 days to file the objections or to submit his representation against the order but considering his reply, the same was declined. The appellant was medically examined and was found clinically intoxicated and was found guilty of misconduct and dis-obedience of lawful orders, vide report Ex D4. The Commandant had passed dismissal order dated 12.09.1996 (Ex P1) as per Section 11(1) of C.R.P.F Act, 1949 read with Rule 27(d)(1) of C.R.P.F Rules, 1955. The appeal against the said order was dismissed vide Ex P2. An appeal against this order was also dismissed on 20.02.1998 by giving opportunity of hearing to the present appellant (Ex P4). Thereafter, the present suit was filed on 19.12.2002 i.e after a gap of almost 04 years whereas as per Section

113 of the Limitation Act, if dismissal order is wrong or ultravires then plaintiff can file suit within three years from the date when the last adverse order was passed against him. Reference was made to a case i.e ***Punjab State vs. Hardev Singh 1997(1) CC 620 P&H.***

Reference at this stage can be made to a judgment of 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 of 03 years will be applicable even in case of a void order.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

30.07.2015

G Arora

(RITU BAHRI)
JUDGE