

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

RSA No. 4517 of 2013 (O&M)

Date of decision: August 25, 2015

Brij Mohan

...Appellant

Versus

State of Haryana and others

...Respondents

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. KS Banyana, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

1. The appeal is against the dismissal of the suit by the judgment of the appellate court, while reversing the decision of the trial court. The plaintiff had filed a suit for declaration that the order of suspension effected between 21.6.1980 to 22.4.1982 and the stoppage of two increments was illegal and void. The suit came to be filed in the year 2006 on a plea that the right to have proper scales of pay fixed was a recurring cause of action and the suit could be filed at any time. The plaintiff would make reference to the fact that he applied for the copies of the suspension order and the proceedings that were held out against him have denied him the increments had not been complied with and the plaintiff was, therefore, handicapped in approaching the court for the relief on appropriate time. The decree of the trial court was set aside by the appellate court by making reliance to the judgment of the Supreme Court in State of Punjab and another Versus Bal

Karan Singh AIR 2007 Supreme Court 247 that considered that in a suit for declaration denying the scales of pay illegally, time starts to sue on the first accrual. Such a right was clearly available to the plaintiff on 13.3.1980 when the order in that behalf was made by the State Government and on expiry of three years from such a suit for declaration, the suit was barred. The court also considered a decision relied on by the counsel for the plaintiff in State of Punjab Versus Mohan Singh 2007 (1) RSJ (P&H) 203 that held that non-fixation of pay scale was a recurring cause of action and it could be challenged at any time, the court found that with the decision of the Supreme Court looming large in Karan Singh's case (supra), the plaintiff cannot have any relief in a suit even now. There is no particular argument made with reference to how the suit was competent but the counsel would make big the aspect of the case which is truly inconsequential that copy of the proceedings had not been served on him and, therefore, the plaintiff could not file the suit. The order of suspension was an experienced fact that the denial of his alleged entitlement to his scale was also a matter of clear fact known to the plaintiff even in 1980.

2. The appeal is without merit. Dismissed.

August 25, 2015
prem

(K.KANNAN)
JUDGE