

**C.M. NOS.14042-44 C OF 2014 &
R.S.A. NO.5906 OF 2014**

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

DATE OF DECISION: SEPTEMBER 07, 2015

**The Kartarpur Co-operative Agricultural Service Society Ltd., District
Rupnagar**

.....Appellant

VERSUS

Bishan Dass and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Vijay Lath, Advocate,
for the appellant.**

**Mr. Naveen Batra, Advocate,
for caveator-respondent No.1.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

There is delay of 2 days in filing and 52 days in refiling the appeal.

So far as merit of the case is concerned, challenge in this appeal is to the judgment and decree passed by the District Judge, Rupnagar, dated 12.04.2014 vide which the appeal preferred by the respondent-plaintiff against the judgment and decree dated 03.11.2012 passed by the Additional Civil Judge (Senior Division), Anandpur Sahib, dismissing his suit for declaration to the effect that respondent-plaintiff was entitled to fixation of his pay in the approved scale of his post i.e. Peon-cum-Chowkidar as

thereafter from time to time granting the approved pay scales and arrears with 18% interest from the date it became due till its payment, has been allowed.

Respondent-plaintiff was appointed on the post of Sewadar with the appellant-defendant Society in the year 1992. The pay scale of the post held by the respondent-plaintiff was not granted to him. He had, therefore, filed a civil suit, as has been mentioned above, on 01.08.2007. Relief, as claimed by the respondent-plaintiff, was dismissed by the Additional Civil Judge (Senior Division), Anandpur Sahib, by holding the suit to be not maintainable. The lower Appellate Court reversed the findings of the trial Court and has decreed the suit of the respondent-plaintiff with full arrears and interest @ 6% per annum from the date of filing of the suit till realization of the said amount.

Learned counsel for the appellant has restricted its claim in the present appeal by asserting that the respondent-plaintiff could not be granted arrears beyond the period of 3 years and 2 months prior to the date of filing of the civil suit. He accordingly contends that the grant of arrears by the lower Appellate Court from the date of its accrual, thus, cannot be sustained.

Counsel for respondent No.1-Caveator has asserted that the judgment and decree passed by the lower Appellate Court may not be interfered with as the Court has considered the evidence on record as also the rules governing the service and has decreed the same. He asserts that respondent No.1-plaintiff has been deprived of his right which has accrued to him as per the statutory rules and, therefore, the arrears as have been granted by the Court below do not call for any interference by this Court.

I have considered the submissions made by counsel for the parties and with their assistance have gone through the judgments passed by the Courts below.

The limited prayer which has been made by learned counsel for the appellant-defendant Society is based upon the principles as have been enumerated under the Limitation Act. No doubt it is a recurring cause of action as far as the claim of the respondent-plaintiff is concerned and, therefore, the suit itself cannot be said to be time barred but the arrears have to be restricted to 3 years and 2 months prior to the date of filing of the civil suit. The civil suit was filed on 01.08.2007 and, therefore, the arrears are restricted to the period of 3 years and 2 months prior to the date of filing of the said suit.

With this modification, the judgment and decree passed by the District Judge, Rupnagar, dated 12.04.2014 stands upheld and the appeal stands disposed of.

**September 07, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**