

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.959 of 2016

Date of Decision.09.02.2016

Haryana Scheduled Caste Finance and Development Corporation

.....Petitioner

Vs.

Ishwar Singh Kundu and another

.....Respondents

Present: Mr. Vishal Gupta, Advocate
for the petitioner.

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?

-. -

K. KANNAN J. (ORAL)

1. The defendant wanted to contend through a petition filed under Order 7 Rule 11 CPC that the suit to challenge the order passed on 21.08.2006 that the punishment imposed declining increments for four years was illegal and void and that the suit ought to have been filed within a period of three years from the date when the cause of action arose and not on the day when the order was passed. The Court declined the petition and allowed the suit to proceed that the case would require to be considered as it involved a mixed question of fact and law.

2. The defendant is before this Court to contend that the judgments of the Supreme Court in State of Punjab Vs. Rajinder Singh 1999 SCC (L&S) 664, State of Punjab and others Vs. Gurdev Singh and Ashok Kumar 1991(4) SCC 1 and S.S. Rathore Vs. State of Madhya Pradesh 1989(4) SCC 582 are very clear on the subject that

the cause of action arises from the date when the order was passed and not on any date subsequently. While I accept that the cause of action would be taken as arising from the date when the order was passed, the relief can always be moulded to secure such benefit as the plaintiff is entitled to, that will fall within the period of limitation. It cannot be as if the whole suit could be dismissed even without making possible to show that a portion of claim could be sustained. It should be still a matter for consideration of whether the plaintiff would be entitled to any relief which accords with by law of limitation. It is surely mixed question which would require a consideration by the trial court itself and the trial court was justified in declining to reject the plaint in the maner canvassed.

3. The order is maintained and the revision petition is dismissed.

(K. KANNAN)
JUDGE

February 09, 2016
Pankaj*