

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

380

**RSA No. 1329 of 1991 (O&M)
Date of decision: 24.08.2016**

State of Punjab and others

.... Appellants

Versus

Karnail Singh

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Neeraj Yadav, AAG, Punjab.

None for the respondents.

P.B. Bajanthri, J. (Oral)

Matter called twice but none appears on behalf of the respondents.

2. In the present appeal, appellants have assailed the order dated 28.07.1990 passed by the Appellate Court.

3. The respondent was subjected to disciplinary proceedings. He has been terminated on 06.03.1982. He preferred an appeal before the appellate authority. The appellate authority has rejected his appeal on 11.01.1983. Thereafter, on 02.03.1988 he filed a suit before the trial Court. Trial court was pleased to reject suit on 30.03.1990. Feeling aggrieved by the order of the trial Court, he preferred an appeal before the appellate Court. Even State of Punjab has also preferred an appeal against order of the trial Court. The appellate Court allowed the appeal of the respondent

while rejecting the appeal of the State. Thus, the appellant have presented this appeal against the appellate court's order.

4. Learned State counsel submits that on the question of limitation itself the decision of the appellate Court is liable to be set aside. In support of said contention he relied on decision of the Apex Court which is reported in 1991(3) SCT 91 titled as ***State of Punjab and others versus Gurdev Singh and Ashok Kumar***. Relevant extract of the judgment is as under:-

“11. The Allahabad High Court in Jagdish Prasad Mathur and Ors. v. United Provinces Government, AIR 1956 Allahabad 114, has taken the view that a suit for declaration by a dismissed employee on the ground that his dismissal is void, is governed by Article 120 of the Limitation Act. A similar view has been taken by Oudh Chief Court in Abdul Vakil v. Secretary of State and Anr., AIR 1943 Oudh 368. That in our opinion is the correct view to be taken. A suit for declaration that an order of dismissal or termination from service passed against the plaintiff is wrongful, illegal or ultra vires is governed by [Article 113](#) of the Limitation Act The decision to the contrary taken by the Punjab & Haryana High Court in these and other cases (State of Punjab v. Ajit Singh,. (1988) 1 SLR 96 and State of Punjab v. Ram Singh, (1986) 3 SLR 379 is not correct and stands overruled.”

5. Having regard to the fact that the respondent's appeal against termination order was rejected on 11.01.1983 by the appellate court, he has filed suit only on 02.03.1988. He should have filed suit within the limitation period under the Limitation Act.
6. In view of the decision of the Supreme Court, the appellate Court's order is set aside.

(P.B.BAJANTHRI)

24.08.2016
pooja saini

JUDGE

Whether speaking/reasons	Yes/No
Whether Reportable:	Yes/No