

RSA-1511-2013(O&M)

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In the High Court of Punjab and Haryana at Chandigarh.

RSA-1511-2013(O&M)
Date of Decision:18.02.2016

State of Punjab

...Appellant

Versus

Gurbachan Singh Saggo

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Neeraj Yadav, AAG, Punjab.

Mr. Hemender Goswami, Advocate,
for the respondent.

SABINA, J.

Appellant had filed suit for recovery of ₹2,66,830/- against the respondent due to shortage of material and negligence of the respondent.

Case of the appellant, in brief, was that respondent was serving as a Sub Divisional Officer and had retired from service. During the service period of the respondent, an amount of ₹86,455/- on account of shortage of material and due to negligence of respondent were liable to be recovered. The details of the material and amounts, as mentioned in Para 2 of the judgment of the trial Court, are reproduced hereinbelow:-

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Sr. No.	Item No.	Month	Amount	Particulars.
1	62/174	6/70	531.94	Shortage against Sh. Gurbachan Singh Sagoo, S.O./SDO through stock paper 6/70
2	68/224	2/79	16192.50	Matgerial found short at the time of handing over the charge of Kauli Section reported vide Indent dated 10.2.79
3	69/225	2/79	7975.00	On account of T & P articles found short at the time of handing over the charge of Kauli Section reported vide Indent dated 10.2.79.
4	87/365	9/93	61756.00	Payment of award/court case arbitration case made to Navyug Co-OP. L & C Socy. Ltd. Patiala due to wrong recovery of Rs.15000/- by Gurbachan Singh Sagoo as per M.B.No.1091/770 Page 69-71.
		Total	86455.44	

It was further the case of the appellant that the cause of action to file the suit has arisen in January 1970 when the shortage was pointed out and September 1993 when the award was passed by the Arbitrator and again on 25.07.2000 when the letter was issued giving sanction of

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recovery of amount and again on 18.01.2006 when the documents of litigation were prepared.

Respondent in his written statement denied the contentions in the plaint and averred that he was never made a party before the Arbitrator.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the defendant owe a sum of Rs.86455/- as Principle amount as detailed in para No.1 of the plaint? OPP*
- 2. If issue No.1 is proved, whether the plaintiff is entitled to recover the principle amount with interest. If so, at what rate.? OPP*
- 3. Whether the suit has not been filed through duly authorized person on behalf of plaintiff. If so, its effect? OPD*
- 4. Whether the instant suit is pre mature. If so, its effect? OPD*
- 5. Whether the suit is within time? OPP*
- 5. Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 12.03.2010 decreed the suit of the appellant for recovery of Rs.86,455/- alongwith interest. The First Appellate Court allowed the appeal filed by the respondent vide judgment/decreed dated 01.03.2012 and consequently dismissed the suit filed by the

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appellant. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

In the present case, admittedly, respondent had retired from service in June 1993, whereas the suit was filed in the year 2007. Recoveries sought to be effected from the respondent relate to the year 1970, 1979 and September 1993. However, the suit was filed in the year 2007 much beyond the period of limitation. First Appellate Court rightly held that the suit filed by the appellant was liable to be dismissed being time barred. It has further been noticed by the First Appellate Court that no inquiry was conducted against the respondent qua the amount in question nor any opportunity of hearing was afforded to him.

In view of the facts and circumstances of the present case, the suit filed by the appellant was liable to be dismissed. No substantial counsel of law arises in this case warranting interference by this Court.

Dismissed.

February 18, 2016
kapil

(SABINA)
JUDGE