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

RSA No.4842 of 2013

Date of decision: March 21, 2016

Mrs. Kusum Tayal

.....Appellant

Versus

The Aggarsain Public School, Kurukshetra
and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Tarun Kumar Dhingra, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration and mandatory injunction challenging her termination order dated 30.05.2001.

The case of the appellant, in brief, was that she was serving as a teacher with the defendants. Her services were terminated vide order dated 30.05.2001. Cheque in the sum of ₹20,790/- was issued in lieu of notice period, but the same was never delivered to the appellant. Appellant preferred CWP No.8951 of 2001 in this Court and the same was disposed of vide order dated 30.10.2003 directing the appellant to file an appeal before the respondents. Appeal filed by the appellant was dismissed by the respondents vide order dated 25.03.2004. Hence, the suit filed by the appellant.

Respondents in their written statement averred that the services of the appellant had been rightly terminated vide

order dated 30.05.2001. Appellant had also been issued cheque in the sum of ₹20,790/- equivalent to three months salary in lieu of notice period. Appellant was partner in M/s Kissan Feeds Ladwa Road, Sheikhpura to the extent of 50%. The said partnership firm was facing criminal proceedings. Appellant was given an opportunity of hearing before the termination order was passed.

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

- “1. Whether plaintiff is entitled for decree of declaration with consequential relief of mandatory injunction as prayed for?OPP
2. Whether the present suit is not maintainable:OPD
3. Whether the plaintiff has no locus standi to file and maintain the present suit?OPD
4. Whether the plaintiff is estopped by her own act and conduct from filing the present suit.
5. Whether the suit is hopelessly time barred?OPD
6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 09.05.2013 partly decreed the suit of the appellant-plaintiff and held that she was entitled to recover amount of ₹20,790/- along with interest at the rate of 12% per annum from the date of her termination till realisation. Appeal filed by the respondents-defendants against the said judgment/decreed was allowed by

the First Appellate Court vide judgment/decreed dated 03.08.2013. Consequently, the suit filed by the appellant-plaintiff was dismissed. Hence, the present appeal by the appellant-plaintiff.

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

First Appellate Court while allowing the appeal filed by the respondents held that the suit filed by the appellant was time barred. In the present case, admittedly, services of the appellant were terminated vide order dated 30.05.2001. Thereafter, appellant preferred writ petition in this Court and the same was disposed of vide order dated 30.10.2003. In pursuance to the order passed by this Court, appellant preferred an appeal and the same was dismissed vide order dated 25.03.2004. However, appellant filed the suit on 30.05.2009. Thus, the suit filed by the appellant was clearly time barred. Even the representation filed by the appellant was rejected vide order dated 20.08.2004. In these circumstances, the learned First Appellate Court rightly held that the suit filed by the appellant was liable to be dismissed being time barred.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

March 21, 2016
mahavir