

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

**RSA No. 3604 of 1998 (O&M)
Date of decision: 06.10.2017.**

Sampuran Singh

...Appellant

versus

Punjab State Electricity Board and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : None for the appellant.

Mr. Sukant Gupta, Advocate with
Mr. S.S. Panag, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

1. The appellant was a work-charge employee dismissed from service on 10.01.1985 by the Punjab State Electricity Board and the suit challenging the order was filed on 17.03.1989 beyond limitation. The allegations of mis-conduct which led to the dismissal also constituted criminal charge against him in a criminal trial for indulging in hooliganism during a strike. He was amongst the workers who waylaid some officers of the Board and belaboured them thereby committing gross misconduct. The management lodged a first information report with the police who investigated the complaint and presented the final report under Section 173 of the Cr PC before the Illaqa Magistrate. Charge was framed and the appellant pleaded not guilty and claimed trial. The criminal trial ended in conviction of the

appellant and sentence for six months besides imposition of ₹250/- as fine.

2. No one appears for the appellant despite listing of case in the cause list. No pass over is sought on his behalf. The respondent counsel is prepared with the arguments and has been heard for final decision on the materials on record of the file.

3. However, the appellant was given the benefit of probation by the Court in appeal against the conviction and sentence. The criminal appeal was decided on 06.11.1985. The order of dismissal followed the conviction. The criminal revision before this Court filed by the appellant was also dismissed. In this backdrop the appellant filed a suit against the order of dismissal on 17.03.1987 in the Civil Court at Bathinda. The learned Additional Civil Judge, Junior Division dismissed the suit *inter alia* on bar of limitation. The appeal failed holding that the suit was barred by limitation, the challenge having been brought after three years of accrual of the cause of action.

4. A significant event occurred when after the dismissal, the appellant was re-employed by the Board on 21.02.1986 vide order EX. P-9. This created a gap of about a year from dismissal to reemployment. In the suit it was *inter alia* claimed that this period should be treated as part of service and when both these are taken stock of the cause of action would become non-actionable on the expiration of the period of three years and, therefore, the Courts below have not committed any

error in dismissing the suit for want of limitation.

5. It is well settled in law that any order of dismissal has to be challenged within three years of the passing of an adverse order even if the plea is it was void ab initio. The legal position stands settled in the judgment of Supreme Court in State of Punjab and others Vs. Gurdev Singh and Ashok Kumar, AIR 1991 SC 2219. Further; see, similar statement of law in Union of India Vs. Nandlal Raigar, 1996 (4) SCC 459.

6. Even otherwise, I am convinced on merits that the appeal must fail in all the eventualities. So long as the conviction stands for an employment based misconduct/criminal offence it could be visited by dismissal for mis-conduct. If the Punjab State Electricity Board had a change of heart and re-employed the appellant to service and he continued *dehors* this litigation, the appellant still cannot as a matter right claim regularization of his gap period. At least Court cannot grant such relief by a decree, not to speak of the Administrator.

7. This appeal is accordingly dismissed being devoid of merit. The judgment and decree in appeal stands affirmed.

(RAJIV NARAIN RAINA)
JUDGE

October 06, 2017

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Whether speaking/reasoned : Yes
Whether reportable : No