

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

**RSA No.425 of 2012 (O&M)
Date of decision: 23.02.2017**

S.C.Shrimali

.... Appellant

Vs.

M/s Asia Brown Boveri Ltd.

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. V.S.Rana, Advocate
for the appellant.

Mr. A.S.Chadha, Advocate
for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

The plaintiff was a senior officer holding the post of Project Manager in the respondent company and had been serving the company since March 1981. He resigned in writing from his job on 25.02.1994 from future date. He did not withdraw the said resignation. The management accepted the resignation on 21.07.1994. The employment relationship came to an end. The plaintiff not only took his all dues on 27.07.1994 but also accepted the experience certificate Ex.D-5 from the management on 05.09.1994 after he was relieved. After over 7 years, the plaintiff brought a suit in the District Court, Faridabad for declaration that he may be included in the company's Voluntarily Retirement Scheme with right to receive an amounting of Rs.10 lacs. The trial ended in the Court of Civil Judge, (Jr. Divn.), Faridabad with the dismissal of the suit.

The unsuccessful plaintiff carried an appeal to the Court of the Additional District Judge, Faridabad in Civil Appeal No.65 of 2010. The

appeal was declined on 06.09.2011. The reasons which led the lower appellate court to dismiss the suit are firstly that the VRS application was never accepted by the competent authority in the management; the resignation was applied for by the plaintiff without demur. He did not withdraw the resignation before the time fixed by him. Merely because the management took few months to accept the resignation would not confer any right or interest in the plaintiff to be treated as one continuing in employment for purposes of VRS. The suit was held barred by time by both the Courts below and likewise issue No.2 was decided against the plaintiff appellant that a suit for mere declaration without seeking mandatory injunction or other relief claimed would not lie to make for relief which is capable of being executed. On these terms, both the Courts are against the appellant.

Having considered the respective stands at the hearing, I find there is no scope for interference in this appeal. The Courts below had to labour and return findings issue-wise on the evidence adduced on record, otherwise the suit could have easily been dismissed in summary fashion on point of limitation even assuming that the resignation was illegally taken or was void. Even then, bar of limitation runs against void acts which have to be challenged in a court of law within the period prescribed for suit in view of the judgment of the Supreme Court in case *State of Punjab & ors. vs. Gurdev Singh-Ashok Kumar*, AIR 1991 SC 2219.

Accordingly, the appeal is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

23.02.2017

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1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No