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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-6470-2017 (O&M)
Date of Decision: 20.11.2018

Mohri Ram

..... Appellant

Versus

Punjab State Coop. Bank Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Arihant Goyal, Advocate,
for the appellant.

SUDIP AHLUWALIA, J. (ORAL)

CM No.8319-C of 2018:

Ld. Counsel for the applicant-appellant is permitted to place on record Affidavit of the appellant.

Application stands disposed off.

RSA No.6470 of 2017:

The present appeal has been preferred against the judgment passed by the Ld. Civil Judge (Junior Division), Fazilka, in Civil Suit No.827-1/10.08.2011, dated 23.07.2014, vide which the appellant's suit for declaration that he is entitled to the balance of the Gratuity Amount which was withheld from his retiral dues from the respondent-Bank, vide its order/resolution dated 15.04.2005 was dismissed, and the decision of the Ld. Additional District Judge, Fazilka, in Civil Appeal No.306 of 2014,

dated 29.02.2016, vide which the judgment of the Ld. Trial Court was upheld.

2. The appellant/plaintiff retired from the service of the respondent-Bank on 30.04.2014. Prior to his retirement, a charge-sheet was drawn on 28.04.2004, which was served upon him, against which he submitted his reply.

3. Later on, a disciplinary enquiry was conducted by the Deputy General Manager, Bathinda, in which the appellant was found guilty of some of the charges levelled against him. Consequently, vide the order/resolution No.12 dated 15.04.2005, 50% of the Gratuity Amount payable to the appellant amounting to ₹1,75,000/- was withheld while all his retiral dues were paid to him.

4. Ld. Trial Court, however, dismissed his suit after noting, *inter alia*, that he had suppressed the fact that earlier he had approached this Court in its Writ jurisdiction challenging the legality of the order dated 15.04.2005, which was disposed off by this Court on 17.05.2007, whereby the respondents were directed to reconsider his representation against imposition of the penalty by way of forfeiture of 50% of his Gratuity Amount.

5. It transpires that the respondents did not pass any speaking order in compliance of the aforesaid direction.

6. In such circumstances, firstly the appropriate remedy available to the appellant ought to have been to approach this Court for enforcement of its direction passed in the Writ jurisdiction by way of appropriate legal remedy. But the appellant did not do so and even suppressed the fact in his

plaint that he had at all filed the said petition.

7. His suit was also dismissed on the additional ground of the same being barred by limitation. Undoubtedly, the impugned order vide which his partial Gratuity Amount had been withheld was passed on 05.04.2005. But the suit was filed more than six years later on 10.08.2011, which was, therefore, miserably beyond the prescribed period of limitation.

8. Consequently, this Court finds no illegality or impropriety in the impugned judgment of the Ld. Trial Court dismissing the appellant's suit, which decision was also upheld by the Ld. Lower Appellate Court.

9. No merits.

10. Dismissed.

20.11.2018

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No