

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
237 **CM-6238-C-2001 &**
CM-10986-C-2018 &
RSA-3196-2001

Date of decision: 04.09.2019

GURDIP SINGH

...APPELLANT

VS.

PUNJAB STATE AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Munish Gulati, Advocate,
for the appellant.

Mr. T.P.S.Chawla, DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-10986-C-2018

Prayer in this application is for fixing an actual date for disposal of the main appeal.

With the consent of the counsel for the parties, the main appeal is taken on Board for final hearing.

Application stands allowed.

CM-6238-C-2001

Prayer in this application is for condonation of delay of 900 days in refiling the appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 900 days in refiling the appeal stands condoned.

RSA-3196-2001

A suit for declaration to the effect that the order dated 23.09.1988 passed by the Director General and Inspector General of Police, Punjab, whereby revision-cum-mercy petition of the appellant-plaintiff was

rejected and the order of the Deputy Inspector General of Police, Jalandhar Range, Jalandhar Cantt. rejecting the appeal against the order dated 27.04.1985 passed by the Senior Superintendent of Police, Jalandhar, whereby the appellant-plaintiff was dismissed from service, has been dismissed by the Civil Judge (Junior Division), Jalandhar vide judgment and decree dated 24.09.1996 on the ground that the suit is barred by limitation, appeal against which preferred by the appellant-plaintiff has also been dismissed on 25.07.1998 by the Additional District Judge, Jalandhar upholding the order passed by the trial Court.

It is the contention of the learned counsel for the appellant that both the Courts below have, on the basis of the evidence which has been led by the parties, come to the conclusion that the order of dismissal from service passed by the Senior Superintendent of Police, Jalandhar, is in violation of Rules 16.24 and 16.38 of the Punjab Police Rules but still the Courts below have proceeded to dismiss the suit being time barred only on the ground that the period for limitation prescribed is three years from the date of cause of action and, therefore, the said declaration could not be issued. He contends that the said conclusion drawn by the Courts below is not sustainable and deserves to be set aside.

On the other hand, counsel for the State has supported the judgments passed by the Courts below, which have been impugned, by asserting that the limitation prescribed for filing a declaration suit is three years as has been held by the Supreme Court in the case of State of Punjab vs. Gurdev Singh, 1991 (2) PLJ 533. He, thus, contends that the appeal is devoid of merit and deserves to be dismissed.

I have considered the submissions made by the learned counsel

for the parties and with their assistance, have gone through the records of the case as well as the impugned judgments.

The admitted facts are that the appellant was dismissed from service vide order dated 27.04.1985 by the Senior Superintendent of Police, Jalandhar, appeal against which was preferred by the him, which was dismissed by the Deputy Inspector General of Police, Jalandhar Range, Jalandhar Cantt. vide order dated 03.09.1987. Thereafter, he filed a revision-cum-mercy petition before the Director General and Inspector General of Police, Punjab, which has also been dismissed on 23.09.1988. The civil suit, therefore, could have been filed by him within a period of three years from the date of receipt of the said order.

It is not in dispute that the appellant-plaintiff had received the said order in the year 1988 itself and, therefore, could have filed the appeal latest in the year 1991. He preferred the present suit on 18.02.1993 which is much beyond the period of limitation prescribed under Article 123 of the Limitation Act. The Hon'ble Supreme Court in the case of State of Punjab vs. Gurdev Singh (supra), has clearly held that the suit for declaration against the order of dismissal from service could be filed within a period of three years. The said period having expired, the present suit had rightly been dismissed by the Courts below on the ground of limitation.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

September 04, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No