

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

110

**RSA No. 1513 of 2017 (O & M)
Date of Decision : 9.4.2019**

Lal Chand (deceased) through LRs**Appellants**

v.

Municipal Corporation, Faridabad**Respondents**

CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present : Mr. Aditya Jain, Advocate, for the appellants

AUGUSTINE GEORGE MASIH, J. (Oral)

Challenge in this appeal is to the judgment and decree passed by the learned Civil Judge (Junior Division), Faridabad dated 10.7.2014, whereby the suit for declaration to the effect that the appellant/plaintiff was employed as a Tubewell Operator/Driver in the year 1972 and his dismissal from service being void, having been granted by the Court earlier, he is entitled to the consequential benefits of arrears, which has not been granted by the respondent/defendants, was dismissed, appeal against which preferred by the appellant/plaintiff, has also been dismissed by the learned District Judge, Faridabad, vide judgment dated 19.10.2016.

It is the contention of learned counsel for the appellants that the appellant/plaintiff had succeeded in earlier round of litigation, where he has challenged his termination order and was entitled to the consequential benefits, including the benefits of pay revision, which was not granted to the appellant.

He contends that the Courts below have failed to appreciate that as he had not claimed the said benefits in the earlier suit and these were the benefits which accrued to him subsequent to that, the dismissal of the suit of the appellant/plaintiff being barred by the provisions of Section 11 CPC and further filed beyond the period of limitation cannot sustain. He, thus, contends that the judgments and decrees as passed by the Courts below, cannot sustain and deserve to be set aside and the suit of the appellant/plaintiff decreed.

I have considered the submissions of learned counsel for the appellants and with his assistance have gone through the available record of the case as well as the impugned judgments but do not find myself in agreement with the submissions of learned counsel for the appellants.

It cannot be disputed that the claim, which is sought to be made in the suit, which has been preferred by the appellant/plaintiff, could have been claimed by him in the earlier suit which he had filed. The injunction which is being sought to be claimed in the present suit, was very much a consequential benefit of the earlier benefits, which he had claimed in the civil suit and therefore, non-claiming of the same at the initial stage, would bar his claim in the present suit. The Courts below have rightly proceeded to hold that the suit of the appellant/plaintiff is barred by the principle of res-judicata as well as the claim being beyond the period of limitation. The judgments being based on proper appreciation of the pleadings and the law on this issue, cannot be faulted with.

There being concurrent finding recorded by the Courts below, in which no illegality has been found, the present appeal, therefore, stands dismissed.

CM No. 3649-C of 2017 :

Since the main case has been disposed of, the present application has rendered infructuous.

Ordered accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

9.4.2019
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No