

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

RSA 3289 of 2000 (O&M)

Date of Decision: March 03, 2022

State of Haryana etc. ...Appellant

Versus

Sty. Siri Parkash Sharma through his Lrs

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Gaurav Jindal, Addl. A.G. Haryana.

Mr. Sahil Gupta, Advocate
for the respondents.

FATEH DEEP SINGH, J. (Oral)

The respondent Sty. Siri Parkash Sharma initially who happened to be the plaintiff had filed a suit for declaration seeking entitlement of the pay-scales of Rs. 1320-2040/- + Rs. 80/- as special pay w.e.f. 01.01.1986 in lieu of previous revised scale of Rs. 525-825/- + Rs. 40/- as special pay claiming that he is entitled to get the difference of pay and other allowances including retiral benefits w.e.f. 1.5.1986 and alongwith it had sought interest @ 18% per annum from

01.05.1986. The suit of the plaintiff was dismissed by the Court of Additional Civil Judge-I (SD), Hisar through judgment and decree dated 20.09.1996.

Upon appeal the Court of Additional District Judge, Hisar vide impugned findings dated 24.05.2000 reversed the findings of the trial Court and by allowing appeal had decreed the suit. It is in these circumstances the present regular second appeal has come about.

The plaintiff admittedly had retired on 01.05.1986 from the rank of ASI with respondents in the police department. It is subsequently the pay was revised in the scale of Rs. 1320-2040/- + Rs.80/- as special pay w.e.f. 01.01.1986 though the plaintiff had retired prior thereto but on account of retrospective effect of the emoluments had filed the suit in question.

The brief claim of the defendants was of denial claiming that the plaintiff had been duly paid the emoluments to which he was found entitled and the present suit is a misuse of the process of the Court and sought its dismissal.

The trial Court framed the following issues:-

1. *Whether the plaintiff is entitled to get his pay revised as alleged, if so, to what effect? OPP.*
2. *Whether the plaintiff has no cause of action to file the present petition?OPD.*
3. *Whether the Civil Court at Hisar has go no jurisdiction to try and entertain the present suit? OPD.*
4. *Relief.*

The plaintiff examined himself as PW1 and proved documents Ex.PA to Ex.PE while the defendants examined Hira Lal, CRC, S.P.Office, Narnaul as DW1 and proved documents Ex.D-1 to Ex.D-9. It is thereafter the impugned findings were returned.

In the light of admitted legal proposition as has been laid down in 'Kirodi (since deceased) through his L.R. Vs. Ram Parkash and others' Civil Appeal No. 4988 of 2019;

SLP(C) No. 11527 of 2019 decided on 10.05.2019, the Court is not supposed to frame substantial question of law in view of the provisions enshrined under Section 41 of the Punjab Courts Act, 1918 which has its application to the States of Punjab and Haryana.

Heard Mr. Gaurav Jindal, Addl. A.G. Haryana and Mr. Sahil Gupta, Advocate for the respondent and perused the records.

Though no issue as to the very question of suit having been filed within limitation has been framed but in view of the well entrenched law that such an objection can be taken up at any stage without there being a specific objection to it and the Courts are well within their powers to consider it. Since the plaintiff had filed a suit for declaration and under Article 58 of the Limitation Act, it ought to have been filed within 3 years when the right to sue accrues. As has been contended the right had accrued with the coming into force of Government notification which was made applicable w.e.f. 01.01.86 and at

that time when the revised scale had come, the plaintiff had already retired. The present suit has been filed on 02.08.95 after a period of 09 years and, therefore, is clearly barred by the principle of limitation. No worthwhile explanation is coming forth from the counsel of plaintiff side who though has sought to put-forth that cause of action has accrued from the date of service of notice Ex.PB which is dated 19.5.1995 and by no means can erase out the bar of limitation. This Court seeks support from Division Bench view of **Mange Ram VS. Union of India and others** and **Kishori Lal Vs. Union of India and others**, 2015(2) SLR 568 and wherein another principle of law has been laid down in **Tarun Bharat Sangh, Alwar Vs. Union of India and others**, 1994 Supp. (2) SCC 342 and the Hon'ble Supreme Court of India has taken note of in a similar situation. In the said ratio it was held that a person who sleeps over his rights and was not vigilant is not entitled to any such relief.

More so, there is nothing illustrative that after the coming into force revised pay scales the plaintiff had made any

representation or not is another distressing feature for the case of the plaintiff. More so, the plaintiff had already been given the benefit of revised pay scales though at a later stage does not in any manner entitles the petitioner to any such interest on the delayed payment which is on account of his own volition. The learned first Appellate Court in the impugned findings has sought to highlight its own efforts in resolving the matter and writing letter to the Accountant General are matters which are swayed by emotional stance and not on the basis of legal jurisprudence. The impugned findings are certainly not fully and legally correct and are thus set aside holding that the plaintiff is entitled to revised pay with effect from the date, the same became applicable to the case of the plaintiff, however, he is not entitled to any interest on these benefits. The present petition stands disposed off accordingly with this modification.

March 03, 2022

(FATEH DEEP SINGH)

amit rana

JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No