

2023:PHHC:093409
**118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-2989-2019 (O&M)
Date of decision: 24.07.2023

Commissioner Municipal Corporation, Bathinda
....Appellant

Versus

Joginder Singh and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjeev Soni, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

CM-8122-C-2019

1. After hearing the learned counsel representing the applicant and for the reasons stated in the application, delay of 32 days in re-filing the appeal is hereby condoned.

2. CM stands allowed.

CM-8123-C-2019

3. After hearing learned counsel representing the applicant and for the reasons stated in the application, delay of 34 days in filing the appeal is hereby condoned.

4. CM stands allowed.

Main case

5. This Regular Second Appeal has been preferred by the Municipal Corporation, Bathinda (the defendant) in a suit which was filed by its former employee, Sh.Joginder Singh, who has already retired, on attaining the age of superannuation. After the retirement of Sh.Joginder Singh, a show cause notice was issued to him alleging that

he failed to make an entry in the Municipal record with respect to the property located within the limits of the Municipal Corporation. On the basis of the aforesaid allegations, a charge-sheet was issued and inquiry report was submitted. Ultimately, disciplinary authority ordered 10% cut in his pension, which led to the filing of the suit. The trial court dismissed the suit, however, the appellate court reversed the judgment of the trial court, while accepting the appeal. It has been found that the alleged inaction on the part of the plaintiff (respondent herein) was in the year 1996 whereas as per Rule 2.2 (b) of the Punjab Civil Service Rules, a limitation for initiation of the disciplinary proceedings after retirement of an employee is 4 years from the date of occurrence. The First Appellate Court has held that the initiation of the departmental proceedings itself was in violation of the rules and hence, the appeal was accepted.

6. Learned counsel representing the appellant submits that this fact came to the notice of the Corporation on 31.08.2004 and immediately a preliminary inquiry was ordered. Rule 2.2 (b) of the Punjab Civil Services Rules, Vol.2 Part I has been reproduced by the First Appellate Court in para 28 of the judgment. In clause (ii) of Rule 2.2 (b), it is provided that the departmental proceedings shall not be instituted in respect of any event which took place more than 4 years before such institution. The limitation under Rule 2.2 (b) does not begin to run from the date of knowledge but from the date of occurrence. Moreover, the respondent has already retired.

7. In view of the aforesaid facts and discussion, no ground to interfere is made out.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

24.07.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE