

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

RSA No.106 of 1992 (O&M)

Date of Order:03.10.2023

The State of Punjab and another**.Appellants****Versus****Kuldip Singh****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Vikas Arora, AAG, Punjab
for the appellants.**

**Ms. Navroop Jawanda, Advocate, for
Mr. Puneet Jindal, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. The State of Punjab and another have filed this regular second appeal against the concurrent findings of fact arrived at by the courts below.
2. The services of the plaintiff (respondent) were terminated on 21.04.1977 on account of unauthorized absence since 13.12.1976. He filed an appeal which was dismissed by the Appellate Authority on 10.05.1980. The civil suit was filed on 12.04.1988.
3. The plaintiff claims that he proceeded on a sanctioned leave in November, 1976 and thereafter applied for extension, therefore, the order terminating his service is incorrect.
4. On the other hand, it is the stand of the respondent that vide registered letter, the plaintiff was directed to resume the duty, however, the plaintiff never came forward to join the duty.
5. Both the courts decreed the suit on the ground that in absence of

charge-sheet and regular departmental inquiry, the punishment of termination from service could not be awarded.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the appellants-State submits that the civil suit filed by the plaintiff (respondent) was beyond the prescribed period of limitation which is three years as per the judgment passed by the Supreme Court in *State of Punjab and others vs. Gurdev Singh, (1991) 4 SCC 1* and *State of Punjab and another vs. Balkaran Singh, (2006) 12 SCC 709*.

8. On the other hand, the learned counsel representing the respondent (plaintiff) submits that since the order of termination of service is void *ab-initio* therefore, there is no necessity of filing the suit.

9. This court has considered the submissions of the learned counsel representing the parties.

10. At one point of time, this court was of the view that if the order of termination of service is void *ab-initio*, then the period of limitation will not begin to run from the date of order. However, the Hon'ble Supreme Court in *State of Punjab and others vs. Gurdev Singh, (1991) 4 SCC 1* and *State of Punjab and another vs. Balkaran Singh, (2006) 12 SCC 709* has held that even a void order is required to be challenged within the period of limitation.

11. The learned counsel representing the respondent relies upon the judgment passed by the High Court in *State of Punjab vs. Ajit Singh, 1988 (1) S.L.R., 96*.

12. The judgment passed in *Ajit Singh's case (supra)*, cannot be

relied upon particularly when the Supreme Court in **Gurdev Singh's case(supra)** and **Balkaran Singh's case(supra)** has consistently held that such orders of termination from service are required to be assailed within a period of three years from the date of cause of action arises.

13. Keeping in view the aforesaid facts and discussion, the judgments and decrees passed by the courts below are set aside. The suit filed by the plaintiff shall stand dismissed.

14. The regular second appeal is allowed.

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

October 03, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO