

2023:PHHC:116664

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

RSA-1449-1992 (O&M)

Date of decision: 04.09.2023

Kishan Singh

..Appellant

Versus

Haryana State through its Collector and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. G.S.Bal, Sr. Advocate with
 Mr. J.S.Randhawa, Advocate for the appellant
 Ms. Vibha Tewari, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

The findings of fact arrived at by the First Appellate Court are challenged in this Regular Second Appeal filed by the plaintiff. His suit for grant of decree of declaration that he is entitled to increments, which fell due on 31.03.1979 alongwith all other allied benefits, was decreed by the trial court, however, reversed by the First Appellate Court. It has come on record that as many as 11 separate orders, stopping the appellant's one annual increment, with cumulative effect, were passed by the competent authority. The First Appellate Court has found that the suit filed by the plaintiff on 01.10.1988 was within the limitation, only with respect to one year, which has already been set aside.

Learned senior counsel representing the appellant submits that since the aforesaid 10 orders were void ab initio, therefore, the First Appellate Court has erred in dismissing the suit qua the aforesaid 10 orders. He further contends that these orders were never served on the appellant and therefore the findings of the First Appellate Court are erroneous.

This Court has considered the submission. The order of stoppage of annual increment, immediately came to the knowledge of the employee, once he does not get the pay with annual increment. The First Appellate Court, on the basis of the evidence, has concluded that the appellant was sleeping over his right and hence, remained silent for a period of more than 10 years before the suit was instituted. The various orders passed by the competent authority were proved by examining Brij Mohan, DW1. Moreover, even with respect to void orders, the Supreme Court in **State of Punjab vs. Gurdev Singh (1991) 4 SCC 1** held that such order is required to be challenged within the period of limitation and not after that. In the **State of Punjab vs. Rajinder Singh 1999 SCC (L&S) 664**, the Court invoked the provisions of Section 27 of the General Clauses Act, 1897 in respect of deemed service and held that such suits challenging the orders stopping the grant of annual increments are barred by limitation period. Moreover, the First Appellate Court has held that the orders were served on the appellant, which were duly acknowledged by him.

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

Hence, dismissed.

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

04.09.2023

rekha

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No

(ANIL KSHETARPAL)
JUDGE