

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

RSA-1668-1992 (O&M)

Date of decision: 01.09.2023

Baldev Singh

..Appellant

Versus

State of Punjab

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms.Puneeta Sethi, Advocate for the appellant
Mr. Ajit Singh Natt, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. This appeal was filed by late Sh.J.M.Sethi, Advocate, who is no more in the world. His daughter, Ms. Puneeta Sethi, who is a practising Advocate has consented to assist the Court in an appeal which is pending for the last 31 years.

2. The correctness of the findings of fact arrived at by the First Appellate Court is questioned by the plaintiff in this Regular Second Appeal. The disciplinary authority vide order dated 26.12.1977 imposed punishment of stoppage of four increments with cumulative effect, which in appeal, was upheld by the appellate authority vide order dated 27.07.1979. The suit was filed by the plaintiff on 15.01.1988 to challenge the correctness of the aforesaid orders. The First Appellate Court has found that the suit was filed beyond the prescribed period of limitation.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. The learned counsel representing the appellant contends that the orders of stoppage of

increments are void ab initio as no disciplinary proceedings were held against the appellant, though a major punishment has been awarded. She submits that such a major punishment is not permissible without holding a regular departmental inquiry.

4. This Court has considered the submissions of the learned counsel representing the parties. The plaintiff filed a suit for grant of decree of declaration which shall be governed by Article 58 of the Schedule attached to the Limitation Act, 1963. Column no.3 of the Article 58 of the Limitation Act, 1963 provides that the limitation period to sue would begin to run when the right to sue first accrues. The limitation for filing such suit is 3 years. The cause of action to file the suit accrued on 27.07.1979, the date on which the appeal filed by the plaintiff was dismissed. The suit was filed after a period of nearly 8 ½ years. Thus, the First Appellate Court has correctly concluded that the plaintiff filed the suit beyond the prescribed period of limitation.

5. Hence, no ground to interfere is made out.

6. Dismissed.

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

01.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE