

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

**RSA-3196 of 2017 (O&M)
Date of Order: 09.08.2023**

Punjab State, Ministry of Transport and another

.Appellants

Versus

Naranjan Singh

..Respondent

RSA-784 of 2018 (O&M)

Naranjan Singh

.Appellant

Versus

Punjab State, Ministry of Transport and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sandeep Chopra, DAG, Punjab
for the appellants (in RSA No.3196 of 2017
for the respondents (in RSA-784 of 2018)**

**Mr. Vipin Mahajan, Advocate
for the appellant (in RSA-784 of 2018)
for the respondent (in RSA-3196-2017)**

ANIL KSHETARPAL, J

1. Through these two connected cross appeals, a common judgment passed by the First Appellate Court has been challenged. Regular Second Appeal No.784 of 2018 has been filed by the plaintiff, whereas Regular Second Appeal No.3196 of 2017 has been filed by the State of Punjab (defendant in the suit).

2. Sh. Naranjan Singh (plaintiff) filed a suit for the grant of decree of declaration to the effect that he is entitled to the increments from the date of his appointment till the date of his superannuation. The plaintiff claims that though he was compulsorily/pre-maturily retired on 15.10.2006,

however, the same was set aside by the civil court on 28.01.2011. Moreover, his increments with future effect with respect to the years 1974, 1975, 1978, 1979 and 1988 were stopped. In an appeal, the aforesaid order was upheld vide order dated 27.07.2012. The trial Court dismissed the suit on the ground that the same was hopelessly time barred, however, the First Appellate Court on re-appreciation of the evidence found that the appellate authority passed the order on 27.07.2012, whereas the suit was filed on 21.05.2013. Hence, it was not filed beyond the prescribed time. Moreover, the order punishing the plaintiff with stoppage of increments with future effect was passed without following the procedure prescribed for imposing major penalty, namely, show cause notice, charge-sheet, departmental inquiry etc.

3. The learned counsel representing the State of Punjab contends that the First Appellate Court has erred in reversing the judgment of the trial court as the suit filed by the plaintiff was hopelessly barred by time. He contends that with respect to the increments of the years 1974, 1975, 1978, 1979 and 1988, the suit could only be filed within a period of 3 years.

4. On the other hand, the learned counsel representing the plaintiff submits that a statutory departmental appeal preferred by the appellant was decided only on 27.07.2012 and therefore, the suit was within time.

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

6. Once, it is not in dispute that the appellate authority while deciding a statutory service appeal passed the impugned order on 27.07.2012 upholding the order of punishment passed by the disciplinary authority, then the suit filed by the plaintiff was not barred by time as the limitation would

begun to run from the date, the order of the appellate authority was communicated to the plaintiff.

7. The plaintiff has filed the cross appeal claiming that the appellate authority has erred in restricting the claim to 38 months before the filing of the suit.

8. The learned counsel representing the appellant submits that once the order of punishment has been set aside, the consequences should follow.

9. This court has considered the submissions.

10. The limitation for filing the suit for recovery is 3 years before the date of filing of the suit. The two months period is calculated towards notice under Section 80 of the Code of Civil Procedure, 1908. in such circumstances, the First Appellate Court has correctly restricted the benefit payable to the plaintiff to 38 months prior to the filing of the suit.

11. Keeping in view the aforesaid facts and discussions, this court does not find any merits in both the appeals.

12. Hence, dismissed.

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

August 09, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO