

Neutral Citation No. **2024:PHHC:016790**

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

216

RSA-1813-1996 (O&M)
Date of Decision:07.02.2024

**PUNJAB STATE THROUGH COLLECTOR,
GURDASPUR AND ANOTHER**

... Appellants

Vs

TARSEM LAL

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. State-defendants are in second appeal before this Court challenging the judgment and decree passed by the first appellate Court.
2. Brief facts may be noticed.
3. Plaintiff-respondent was working as a Conductor with the Punjab Roadways, Batala. Claiming that he came to know about some punishment orders passed against him censuring him and stopping his increments in the year 1989, which were violative of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short ‘the Rules’), he filed a suit on 26.05.1993 for declaration that they are illegal, null and void and for grant of consequential benefits.

4. Upon notice, defendants-appellants appeared and filed the written statement contesting the suit. Various preliminary objections were taken and it was submitted that the suit is barred by limitation and that the plaintiff-respondent is no longer working as his services have been discontinued for want of post w.e.f 03.08.1989. A replication was filed by the plaintiff-respondent.

5. After the issues were framed and parties recorded their evidence, trial court vide judgment and decree dated 28.01.1994 dismissed the suit. Appeal filed by the plaintiff-respondent was accepted by the learned first appellate Court vide judgment and decree dated 06.02.1996 and punishment orders dated 05.10.1987, 03.10.1989, 26.10.1989 and 06.05.1989 were set aside and he was held entitled to arrears of pay, bonus, allowances etc. In this backdrop, State-defendants are in second appeal before this Court.

6. Despite service, there is no representation on behalf of the plaintiff-respondent.

7. I have heard State counsel and examined the record with his able assistance.

8. Civil suit for declaration, challenging some punishment orders had been instituted by the plaintiff-respondent on 26.05.1993. On an objection raised by the State-defendant, issue No.3 was framed as to 'Whether the suit is time barred?' This issue was decided in favour of the defendant-State. However, without noticing that there was a delay in approaching the Court and without reversing the findings on issue No.3, the first appellate Court has accepted the

appeal filed by the plaintiff-respondent.

9. Insofar as the orders, which have been set aside by the first appellate Court, it is evident that all the orders have been passed by the authorities more than 3 years prior to the institution of the suit. Limitation for instituting a suit for declaration is three years under Article 58 of the Schedule to the Limitation Act, 1963. Reference may also be made to the judgments of 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. No relief could have been granted by the Appellate Court as the suit was barred by limitation. In view of the above, this Court is of the view that the judgment and decree passed by the first appellate Court cannot be sustained.

10. For the aforesaid reasons, this Court is of the opinion that there is merit in the appeal, which is accepted. Judgment and decree passed by the first appellate court is set aside and the suit of the plaintiff-respondent is dismissed through-out with no orders as to costs.

07.02.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No