



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(121)

CWP No. 12209 of 2024
Date of Decision : 22.05.2024

Faquir Chand Sheokand and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Virender Singh Punia, Advocate for the petitioners.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the order dated 12.09.2011 (Annexure P-1) by which the benefit of step up of pay granted in favour of petitioners has been withdrawn. The further challenge is to the order dated 25.01.2023 (Annexure P-2) by which, the petitioners have been informed that their claim for step up of pay has already been rejected in the year 2011.
2. Learned counsel for the petitioners argues that the withdrawal of benefit of step up of pay is arbitrary and illegal as the same benefit has been extended in favour of the other similarly situated employees and hence, the petitioners are also entitled for the said benefit.
3. Notice of motion.



4. On the asking of the Court, Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

5. Learned counsel for the respondents, on the other hand, submits that in the present case, the specific order was passed on 12.09.2011 withdrawing the benefit of step up of pay and after a period of more than 12 years, the present petition has been filed, which is not maintainable and hence, the same is liable to be dismissed on the ground of delay and laches.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. To raise a service dispute, the same has to be raised within a specific time. As per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 4772 of 1989 titled as ***State of Punjab and others Vs. Gurdev Singh and Ashok Kumar***, decided on 21.08.1991, even a void order has to be challenged within a period of three years. The relevant portion of the judgment in ***Gurdev Singh (supra)*** is as under :-

“4. First of all, to say that the suit is not governed by the law of Limitation runs afoul of our [Limitation Act](#). The statute of limitation was intended to provide a time limit for all suits conceivable. [Section 3](#) of the Limitation Act provides that a suit, appeal or application instituted after the prescribed "period of limitation" must subject to the provisions of [Sections 4 to 24](#) be dismissed although



*limitation has not been set up as a defence, [Section-2\(J\)](#) defines the expression "period of limitation" to mean the period of limitation prescribed in the Schedule for suit, appeal or application. [Section 2\(J\)](#) also defines, "prescribed period" to mean the period of limitation computed in accordance with the provisions of the Act. The Court's function on the presentation of plaint is simply to examine whether, on the assumed facts the plaintiff is within time. The Court has to find out when the "right to sue" accrued to the plaintiff. If a suit is not covered by any of the specific articles prescribing a period of limitation, it must fail within the residuary article. The purpose of the residuary article is to provide for cases which could not be covered by any other provision in the [Limitation Act](#). The residuary article is applicable to every variety of suits not otherwise provided for. [Article 113 \(corresponding to Article 120](#) of the Act 1908) is a residuary article for cases not covered by any other provisions in the Act. It prescribes a period of three years when the right to sue accrues. Under [Article 120](#) it was six years which has been reduced to three years under [Article 113](#). According to the third column in [Article 113](#), time commences to run when the right to sue accrues. The words "right to sue" ordinarily mean the right to seek relief by means of legal proceedings. Generally, the right to sue accrues only when the 'cause of action arises, that is, the right to prosecute to obtain relief by legal means. The suit must be instituted when the right asserted in the suit is infringed or when there is a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted (See: (i) *Mt. Bole v. Mt. Koklam and Ors.*, AIR 1930 PC 270 and (ii) *Gannon Dunkerley and Co. v. The**



Union of India, AIR 1970 SC 1433).

8. It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him. He must approach the Court within the prescribed period of limitation. If the statutory time limit expires the Court cannot give the declaration sought for.

11. The Allahabad High Court in Jagdish Prasad Mathur and Ors. v. United Provinces Government, AIR 1956 All 114 has taken the view that a suit for declaration by a dismissed employee on the ground that his dismissal is void, is governed by Article 120 of the Limitation Act. A similar view has been taken by Oudh Chief Court in Abdul Vakil v. Secretary of State and Anr., AIR 1943 Oudh 368. That in our opinion is the correct view to be taken. A suit for declaration that an order of dismissal or termination from service passed against the plaintiff is wrongful, illegal or ultra vires is governed by Article 113 of the Limitation Act. The decision to the contrary taken by the Punjab & Haryana High Court in these and other cases ((i) State of Punjab v. Ajit Singh, [1988] 1 SLR 96 and (ii) State of Punjab v. Ram Singh, [1986] 2 SLR 379 is not correct and stands overruled.”

8. In the present petition, an order withdrawing the benefit of step up of pay is being challenged after a period of twelve and half years, which is not permissible.



9. Nothing has come on record as to why the petitioners did not agitate the claim qua the impugned order dated 12.09.2011 (Annexure P-1). In the absence of any valid justification, the grievance qua an old and stale order, cannot be considered.
10. No ground is made out for any interference by this Court in the present petition.
11. Dismissed.

May 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No