



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO No.42 of 2012 (O&M)

Date of Order:16.05.2024

Punjab State Electricity Board (Now PSPCL)

.Appellant

Versus

Sukhpal Singh Rattan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hitesh Pandit, Advocate
for the appellant.

Mr. Ashish Bansal, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. This second appeal against order has been filed challenging the correctness of the order passed by the First Appellate Court while remanding the case back to the trial court with a direction to decide the suit comprehensively.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

3. On 09.06.2006, the plaintiff filed a suit for declaration that the memo dated 19.05.2003, and order dated 09.12.1991, are illegal, null and void. He joined as a Upper Division Clerk in Punjab State Electricity Board on 07.03.1974. Subsequently, he was promoted as a Senior Assistant, though posted as a Law Officer. He retired on 30.04.2005. While he was serving, he made a representation that the period he had worked in other departments shall be counted towards the determination of tenure of service for the purpose of pensionary benefits. The aforesaid representation was



declined by the competent authority on 09.12.1991. The plaintiff also submitted another representation which upon consideration was disposed of by directing the plaintiff to deposit Rs.62,060/-, however, the plaintiff did not deposit the aforesaid amount.

4. The trial court dismissed the suit on the ground that it has been filed beyond the period of limitation, however, the First Appellate Court held that the suit was filed within the prescribed period of limitation. The First Appellate Court held that the cause of action in favour of the plaintiff subsisted.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

6. Section 22 of the Limitation Act, 1963 (hereinafter referred to as 'the 1963 Act') , incorporates the concept of continuing breaches and the torts. It is debatable as to whether Section 22 of the 1963 Act would come to the rescue of the plaintiff particularly when a specific order declining the plaintiff's request was passed on 09.12.1991.

7. The First Appellate Court has relied upon the judgments passed by the courts while deciding the writ petitions where the 1963 Act is not strictly applicable, whereas, the 1963 Act is applicable to the Civil suits. A suit for declaration shall be governed by Article 58 of the Schedule attached to the 1963 Act which provides that the period of limitation shall begin to run from the date, the right to sue first accrued.

8. Keeping in view the aforesaid facts, the impugned order passed by the First Appellate Court is set aside with a request to decide the matter afresh in accordance with law.



- 9. The second appeal against order is allowed.
- 10. The parties through their learned counsel are directed to appear before the First Appellate Court, on 31.05.2024.
- 11. All the pending miscellaneous applications, if any, are also disposed of.

May 16, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO