



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

(210)

RSA-2606-2000 (O&M)

Date of Decision: - 12.11.2025

Bimla Devi (since deceased) through her LR

....Appellant

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajan Bansal, Advocate, for the appellant.

Mr. Sandeep Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present appeal is to the judgment and decree dated 08.01.1997 passed by the Civil Judge (Jr. Division), Bathinda, vide which the suit of the plaintiff/present appellant (now being represented through his LR) for declaration to the effect that the plaintiff be deemed to have been promoted as Tehsildar w.e.f. 08.01.1982 and for further relief, was dismissed. Challenge is also to the judgment dated 16.02.2000 passed by the Additional District Judge, Bathinda, vide which the appeal filed by the legal representative of the plaintiff, was dismissed.

ARGUMENTS ON BEHALF OF THE APPELLANT

2. Learned counsel for the appellant has submitted that in the

present case, the appellant was appointed as B-Class Naib Tehsildar in the Ferozepur Division, vide order dated 13.06.1980 (Ex.P3) and that thereafter vide order dated 22.06.1982, under some misconception, the Commissioner, Ferozepur Division, had de-enlisted all the B-Class Naib Tehsildar candidates, including the plaintiff. It is further submitted that the plaintiff along with other persons being aggrieved with the said decision had challenged the same before the Hon'ble Punjab and Haryana High Court by filing writ petitions and during the pendency of the said writ petitions, the State of Punjab vide order dated 14.07.1986 had directed the Commissioner, Ferozepur Division to withdraw the order dated 22.06.1982 with respect to de-enlisting of Naib Tehsildar candidates and accordingly, all the writ petitions were disposed of as having become infructuous and vide order dated 11.09.1986, candidature of the plaintiff along with other persons was ordered to be revived w.e.f. 13.06.1980. It is argued that thereafter, vide a communication dated 17.03.1987 (Ex.P9), the plaintiff was informed about the finalization of the seniority list of Naib Tehsildar.

3. It is submitted that however, during the interregnum, one Ajmer Singh, Naib Tehsildar, who was junior to the plaintiff, was promoted as Tehsildar on 08.01.1982 and the plaintiff vide representation dated 07.02.1989 (Ex.P12) had prayed that the plaintiff be granted seniority from the date his junior Ajmer Singh was promoted. It is further submitted that on 09.04.1992 (Ex.P13), the plaintiff received a rejection order dated 20.06.1989 and after the same, the present suit was filed on 23.02.1993. It is argued that the trial Court as well as the 1st Appellate

Court had dismissed the suit of the plaintiff solely on the ground that the suit is barred by limitation and that the limitation period for filing the suit for declaration under Article 58 of the Limitation Act, 1963 is three years from the date when the right to sue accrues. It is further argued that the right to sue accrued to the plaintiff only when he learnt about the rejection of his representation dated 07.02.1989 on 09.04.1992 when he received the letter (Ex.P13). It is submitted that since the suit was filed within a period of three years from the date of the said rejection, thus, it cannot be said that the suit was barred by limitation. It is further submitted that since other issues were primarily held in favour of the plaintiff, thus, the rejection of the suit of the plaintiff on the ground of limitation was illegal and against law and deserves to be set aside and the suit of the plaintiff deserves to be decreed.

ARGUMENTS ON BEHALF OF THE RESPONDENTS

4. Learned counsel for the respondents-State, on the other hand, has submitted that the suit of the plaintiff had been rightly dismissed and even the appeal filed by the legal representative of the plaintiff had also been rightly dismissed. It is argued that it is a matter of settled law that the period of limitation would start from the date when the cause of action first accrues and even in case the claim of the plaintiff is taken on face value, then also, the cause of action to file the suit accrued on 08.01.1982 when Ajmer Singh was promoted, which as per the case of the plaintiff was a person junior to him. It is further argued that at any rate, on 11.09.1986, when the candidature of the plaintiff had been revived as that of Naib Tehsildar, the plaintiff could have filed the suit immediately

thereafter. It is submitted that even the finality of the seniority list was communicated to the plaintiff on 17.03.1987 (Ex.P9) and the plaintiff did not file the suit even within a period of three years from the said date and had not even challenged the said seniority list and had filed the present suit after he had been promoted on 08.02.1988 and had also retired on 31.03.1991.

5. It is further submitted that in the present case, the suit is apparently barred by limitation and in fact the plaintiff was also estopped from pursuing the case, as, after having taking the benefit of the promotion order dated 08.02.1988 and also after having retired, the plaintiff had instituted the present litigation. It is stated that the representation which had been filed by the plaintiff was not referable to any statutory provision and thus, the starting point of limitation cannot be made dependent upon the decision on the said representation. It is a matter of settled law that an order passed on the representations which are not referable to any statute cannot be considered to be the starting point of limitation for filing the suit, as the cause of action in such a case arises on the date when the alleged junior is promoted. It is submitted that the suit also deserves to be dismissed on the ground of non-joinder of necessary party, inasmuch as, Ajmer Singh had not been made a party in the suit. It is further submitted that the plaintiff was convicted under the Prevention of Corruption Act and even as per the case of the plaintiff, his appeal is pending before the High Court and the judgment of the trial Court has not been set aside and thus, neither in equity nor under any law, the plaintiff has any right to seek retrospective promotion.

ANALYSIS AND FINDINGS

6. This Court has heard learned counsel for the parties and has gone through the paper-book and finds that the judgments and decree of the trial Court as well as of the 1st Appellate Court are in accordance with law and deserve to be upheld and the present appeal being meritless, deserves to be dismissed for the reasons detailed hereinafter.

7. Undisputed facts in the present case are that the plaintiff had filed a suit on 23.02.1993 for declaration to the effect that the plaintiff be deemed to have been promoted as Tehsildar w.e.f. 08.01.1982, on which date his alleged junior Ajmer Singh had been promoted to the post of Tehsildar. It is also undisputed that much prior to filing the suit the plaintiff was promoted as Tehsildar on 08.02.1988 and had retired on 31.03.1991. The trial Court as well as the 1st Appellate Court had concurrently found that the suit of the plaintiff was barred by limitation. Admittedly, as has also been argued by the counsel for the appellant, the limitation in the present case would be governed by Article 58 of the Limitation Act, 1963, which reads as under: -

“58 To obtain any other declaration Three years When the right to sue first accrues.”

A perusal of the above provision would show that for seeking any declaration other than the declarations which have been detailed under Articles 56 and 57 of the Limitation Act, 1963, the period of limitation is three years from the date when the right to sue first accrues. Article 113 of the Limitation Act, 1963, which is the residuary article and provides for limitation where no period of limitation has been provided,

also prescribes a period of limitation of three years from the date the right to sue accrues. It is a matter of settled law that when the authorities have committed an illegality or an illegal act or passed an illegal order, then, the right to sue accrues to the aggrieved party and it is incumbent upon the aggrieved party to challenge the said illegality/illegal act/illegal order by filing the suit within the period of limitation, prescribed under the Limitation Act and in case the same is not done, then, the suit is required to be dismissed on the ground of limitation alone. It is also repeatedly held that giving of representations, which are not referable to any provision of law, and the decision on the same does not enlarge the limitation period.

8. The Hon'ble Supreme Court in the case of “**State of Punjab and others Vs. Gurdev Singh and Ashok Kumar, reported as 1991(4) SCC 1** had observed that the view taken by the High Court to the effect that there was no limitation for instituting a suit for declaration in the case of a void act or a void order was not the correct law, as even a suit for declaration to declare a void order as void/nullity, has to be filed within the period of limitation. It was observed in the said case that even in case there was no article in the Limitation Act governing the limitation for filing such a suit for declaration, then also, Article 113 of the Limitation Act would apply and the period of limitation would be three years. In the said case, the 1st Appellate Court as well as the High Court had observed that since the termination order passed was absolutely illegal, thus, there was no limitation for filing the suit. The Hon'ble Supreme Court however had set aside the judgment of the High Court as well as of the 1st

Appellate Court and had dismissed the suit of the plaintiff therein after observing that the party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order is illegal and not binding within the period of limitation and in case the statutory time limit expires, then, the Court cannot give the declaration sought for. The Hon'ble Supreme Court in the case of “*State of Punjab Vs. Rajinder Singh, reported as 1999 SCC (L&S) 664*”, after considering the provisions of Section 58 of the Limitation Act, 1963, had observed that the limitation of three years for challenging an order starts from the date of the said order and on expiry of the said period from the date of the order, the suit gets barred by limitation.

9. This Court is of the view that the cause of action to file the suit first accrued to the plaintiff when, as per the case of the plaintiff, his junior Ajmer Singh was promoted to the post of Tehsildar on 08.01.1982. The case of the plaintiff to the effect that the plaintiff was de-enlisted on 22.06.1982 and was subsequently reinstated vide order dated 11.09.1986 (Ex.P8) would also not in any way be a ground to set aside the finding of the Courts on the ground of limitation for the reasons that the said order dated 22.06.1982 was passed subsequent to the order dated 08.01.1982, when the cause of action to file the suit had already arisen. Moreover, since as per the case and the documents of the plaintiff, the services of the plaintiff were revived vide order dated 11.09.1986 and even the final seniority list of the Naib Tehsildar was circulated to the plaintiff on 17.03.1987 (Ex.P9), thus, even in case the said two dates i.e. 11.09.1986 or 17.03.1987 are taken as the starting point for computing the period of

limitation, it is not disputed that the present suit had not been filed within three years from the said dates also, inasmuch as, admittedly the suit had been filed on 23.02.1993. Further, it would be relevant to add that the plaintiff had not challenged the final seniority list of the Naib Tehsildar which was circulated on 17.03.1987 (Ex.P9), although it did not have the name of Ajmer Singh as he was already promoted as Tehsildar.

10. The reliance sought to be placed upon the representation dated 07.02.1989 having been filed by the plaintiff and the same having been rejected on 20.06.1989 and the said rejection having been informed to the plaintiff on 09.04.1992 would also not in any way extend the limitation period. It is not in dispute that the said representation is not referable to any statutory provision and no provision of law has been highlighted before this Court to show that the plaintiff had a right under any provision of law to make such a representation after the act/order of promoting the alleged junior had already been passed by the respondents. Once, the statute governing the service conditions of the plaintiff did not provide for any statutory representation, the question of filing such a representation and waiting for the result of the same was done by the plaintiff at his own peril. Article 58 of the Limitation Act, 1963 specifically provides that the suit is to be filed within three years from the date the right to sue first accrues. It could not be disputed that the right to sue first accrued on 08.01.1982 and thus, the suit should have been filed within three years from the said date.

11. The Hon'ble Supreme Court of India in the case “State of Uttaranchal and another Vs. Sri Shiv Charan Singh Bhandari and

others” reported as 2013(12) SCC 179 had observed that repeated representations or reply to such representations cannot furnish a fresh cause of action or revive a stale or dead claim and that the issue of limitation or delay should be considered with reference to the original cause of action and not with reference to the date on which an order was passed in compliance of the Court's directions and neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. In “***Chairman, U.P. Jal Nigam and Anr. Vs. Jaswant Singh & Anr.***” reported as 2006(11) SCC 464, the Hon'ble Supreme Court had rejected the claim of the persons who were guilty of delay and had approached the Courts after some years and had sought to raise the plea that similarly situated persons, who had filed the writ petitions earlier, had been granted the relief.

12. The judgment of the Hon'ble Supreme Court in “***State of Uttaranchal's case (supra)***” has further been referred to in the latest judgment of the Hon'ble Supreme Court passed in ***State of West Bengal Vs. Debabrata Tiwari and Others*** reported as 2023-SCC-Online-SC-219.

The relevant portion of the same is reproduced hereinbelow:-

“40. Further, simply because the Respondents-Writ Petitioners submitted their applications to the relevant authority in the year 2005- 2006, it cannot be said that they diligently perused the matter and had not slept over their rights. ***In this regard, it may be apposite to refer to the decision of this Court in State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179, wherein the following observations were made:***

"19. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time."

13. Even the representation in the present case, as per the case of the plaintiff, had been moved on 07.02.1989 i.e. after a period of more than seven years from the date of promotion of the alleged junior on 08.01.1982. The same is also after a period of more than two years and five months of the passing of the order dated 11.09.1986 vide which the present plaintiff was reinstated. Thus, the filing of the said representation or the rejection of the same on 20.06.1989 or the alleged receipt of the same subsequent thereto would not extend the period of limitation. In the present case, it is not in dispute that the plaintiff was subsequently promoted to the post of Tehsildar on 08.02.1988 and had also retired on 31.03.1991 and has thus filed the suit after a period of more than 5 years of having been granted promotion and after almost two years even from the date of retirement date i.e. 23.02.1993. The plaintiff had accepted his promotion to the post of Tehsildar on 08.02.1988 and had not even approached the Court within the period of three years even from the said order and after having accepted the said order, the plaintiff is estopped from filing the suit claiming promotion from an earlier date.

14. Additionally, it would be relevant to note that Ajmer Singh, who is alleged to have been junior to the plaintiff, had not been made a party in the present case. In para 13 of the plaint, it was the grievance of

the plaintiff that no temporary post had been created in his favour which should have been done. It was not the case of the plaintiff in the plaint that there were any vacant post available and rather the averments made in para 13 with respect to the grievance of the plaintiff that a temporary post should have been created shows that the plaintiff wanted that the defendants create a temporary post so as to accommodate him. In case the plaintiff wanted to raise a plea that he was senior to Ajmer Singh and should have been promoted instead of Ajmer Singh as it was Ajmer Singh who had filled up the post which was to be filled up by the plaintiff, then, it was incumbent upon the plaintiff to have made Ajmer Singh a party to the suit. The observation of the 1st Appellate Court to the effect that any order passed would also have an adverse effect on Ajmer Singh, who was promoted earlier to the plaintiff and thus, he was also required to be made a party, is in accordance with law and deserves to be upheld.

15. It would also be relevant to note that it is not disputed that the present appellant had been convicted for two years and had also been ordered to pay a fine of Rs.5,000/- by the Special Judge, Ferozepur, under Sections 5(1)(d) and 5(2) of the Prevention of Corruption Act and although, it is the case of the plaintiff that an appeal against the said judgment of conviction had been filed before this Court, but on a pointed query raised by this Court, learned counsel for the appellant has submitted that he is not aware of the status of the said appeal. Nothing has been shown to this Court that the said conviction under the Prevention of Corruption Act has been set aside. It is also the case of the respondents, more so, in para 10 of the written statement that there were adverse

remarks regarding doubtful integrity of the plaintiff for the year 1981-82, 1984-85 and 1986-87 and there were complaints against the plaintiff for which he was also penalized by the Commissioner, Ferozepur Division. The trial Court had dismissed the suit in the year 1997 and even the appeal filed by the plaintiff had been dismissed by the 1st Appellate Court in the year 2000 and there is no interim order in favour of the present appellant by this Court and even the appellant, after having retired from service, has died.

16. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the judgments and decree passed by the trial Court as well as by the 1st Appellate Court are in accordance with law and do not suffer from any illegality or perversity nor are against law and thus, deserve to be upheld and are accordingly upheld and the present appeal being meritless, deserves to be dismissed and is accordingly dismissed.

November 12, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes