2025:PHHC:061168

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

213

CWP-14308-2019 (O&M).
Date of Decision: 08.05.2025.

YOGESH

... Petitioner

Versus

ASSISTANT GENERAL MANAGER-III, STATE BANK OF PATIALA AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Manish Mehta, Advocate,
for the petitioner.

Mr. Akshay Jain, Advocate,
for the respondents/SBI.

VINOD S. BHARDWAJ, J. (ORAL)

Challenging the order dated 16.08.2012 (Annexure P-4) whereby the services of the petitioner were terminated from the post of Peon-cum-Frash, the instant writ petition has been filed.

2 Learned counsel for the petitioner contends that the petitioner was appointed as a Peon-cum-Frash by the respondent Bank vide appointment letter dated 06.02.2012 at the basic pay of Rs.5,850/- per month. On 13.06.2012, the Branch Manager of the then State Bank of Patiala (now merged in the State Bank of India), Julana, moved an application to the

2025:PHHC:061168

Superintendent of Police for verification of the antecedents of the petitioner. A report was thereafter received from the Police Station that the petitioner was having a good reputation and did not have any relation with any political party or anti-social elements, however, it was also informed that an FIR No.264 dated 13.12.2011, under Sections 419 and 420 of the Indian Penal Code, was registered against him at Police Station, Bawal. He fairly informs this Court that post trial, the petitioner was convicted in the aforesaid FIR but was released on probation under the provisions of Probation of Offenders Act vide judgment dated 19.09.2016. The petitioner thereafter filed a civil suit for declaration with all consequential reliefs challenging the order of termination, before the Civil Judge (Sr. Divn.) Rewari, in the year 2017. An application was however moved by the respondent Bank under Order 7 Rule 11 of the Code of Civil Procedure, for rejection of the plaint. The said civil suit was dismissed as withdrawn on 25.03.2019 and thereafter the instant writ petition had been filed.

3 Learned counsel contends that it is a case of extreme hardship where the petitioner has been terminated from service only on account of registration of an FIR against him wherein he was ultimately released on probation. The law mandates that even a conviction would not be a bar against the probationer for seeking a public appointment and despite the same, the respondent bank has terminated the petitioner solely on his involvement in the commission of said offences. He contends that owing to

the lack of awareness, the petitioner could not approach the Court immediately and for the said delay, his fate ought not be sealed.

4 Learned counsel appearing for the respondent Bank, on the other hand, contends that the aforesaid FIR had been registered against the petitioner for having impersonated in place of somebody else in an examination. It is further submitted that the order of termination in this case was passed on 16.08.2012 whereas the civil suit was filed after 05 years in the year 2017 i.e. after expiry of the period of limitation. The said suit was later withdrawn on 25.03.2019 with the liberty to take plea of condonation of delay but the instant writ petition has been filed instead before this Court after a delay of nearly 07 years of the dismissal from service. He thus argues that the instant writ petition deserves to be dismissed on the principle of delay and laches and being for a cause barred under the Limitation Act, 1963. He further submits that the said post is no more vacant in the respondent Bank and that it has been filled up by appointment of a suitable candidate. The subsequent person who has been inducted and appointed against the said post cannot be asked to move out only to make a place for the petitioner at this belated stage especially after a period of more than 13 years since the order of termination by the respondent Bank.

5 I have heard the learned counsel appearing for the respondent parties and have gone through the documents appended along with the present petition with their able assistance.

6 It is undisputed that the first proceeding was initiated by the petitioner after a period of nearly 05 years of the order of termination, hence, the same was clearly barred by limitation as the period prescribed under the Limitation Act, 1963, for institution of civil suit for declaration against the order of termination is 03 years. Even though it is not in dispute that no limitation is prescribed for initiation of proceedings under Article 226 of the Constitution of India, however, sufficient compelling reasons must exist where such a relaxation is to be extended. The Hon'ble Supreme Court in ***Civil Appeal No.5131 of 2025 titled as 'R.Nagaraj (Dead) through LRs and another vs Rajmani and others decided on 09.04.2025'*** has held that ordinarily the law of limitation should be adhered to where the proceeding has been instituted expeditiously and where the proceeding is barred by the limitation, the Court should not interfere ordinarily. The relevant part of the judgment is extracted hereunder:

> *"19. The object of framing an issue is to determine the material point of disputes between the parties, for the purpose of adjudication. Issues can be framed on a question of law or fact or a mixed question of law and fact. The decision on the issue settles the lis in favour of either of the parties. A distinct issue is to be formed when a material proposition of law or fact is affirmed by one party and denied by another. Also, there is no necessity to frame an issue, when the parties are not at dispute on a particular fact or law. At times, despite pleadings, when a specific issue is not framed, but when both the parties to the lis have let in evidence and rendered their arguments on a point, the decision on which is intrinsically connected to the main*

issue, then the Court is bound to render a finding on the point of dispute before deciding the connected issue, one way or another. In that case, it becomes the duty of the Court to analyze the evidence before it and render a decision on all disputed questions of fact or law, directly or indirectly in issue, so as to put an end to the lis. The Limitation Act,1963 restricts the right of a litigant by prescribing a time limit within which action must be initiated. Its object is to provide a time or period, within which, the action has to be initiated. The object of the Act is not to destroy a vested right available in law but to prevent indefinite litigation and therefore, only prescribes a period for initiation of the litigation. This Court has described the object of the Limitation Act, 1963 in the following decisions:

> *(i)* ***Bharat Barrel & Drum Mfg. Co. Ltd. and Another v. Employees State Insurance Corporation (AIR 1972 SC 1935****):*
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> *"7. …… The object of the Statutes of Limitations is to compel a person to exercise his rights of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims. While this is so, there are two aspects of the Statutes of Limitation the one concerns the extinguishment of the right if a claim or action is not commenced with a particular time and the other merely bar the claim without affecting the right which either remains merely as a moral obligation or can be availed of to furnish the consideration for a fresh enforceable obligation. Where a statute prescribing the limitation extinguishes the right, it affects substantive right while that which purely pertains to the commencement of action without touching the right is said to be procedural".*

(ii) ***N. Balakrishnan v. M. Krishnamurthy (1998) 7 SCC 123***

*"that the Limitation Act is based upon public policy which is used for fixing a life span of a legal remedy for the purpose of general welfare. It has been pointed out that the Law of Limitation are not only meant to destroy the rights of the parties but are meant to look to the parties who do not resort to the tactics but in general to seek remedy. It fixes the life span for legal injury suffered by the aggrieved person which has been enshrined in the maxim '**interest reipublicae ut sit finis litium**' which means the Law of Limitation is for general welfare and that the period is to be put into litigation and not meant to destroy the rights of the person or parties who are seeking remedy. The idea with regards to this is that every legal remedy must be alive for a legislatively fixed period of time".*

7 The respondent-Bank has further submitted that the post is no more lying vacant and another incumbent stands appointed against the regular post in a subsequent process of recruitment. At this juncture, it would not be appropriate for this Court to grant an indulgence which may result in ouster of some other person who has been selected and has been working against the said post for more than 10 years.

8 So far as the contention of the petitioner that the conviction would not be a bar in view of the provisions contained in the Probation of Offenders Act is concerned, the same is not disputed, however, the order of

probation was passed way-back in the year 2016 i.e. much later than the order of termination which was passed in the year 2012. Hence, not much aid can be drawn from the said order.

9 Examining the case from either of the angles, the relief prayed for by the petitioner in the present case cannot be granted at this stage.

10 Consequently, the instant writ petition is dismissed.

May 08, 2025. **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

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