



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

**CWP-25496-2019 (O&M)
Date of Decision : 11-07-2025**

RAJNI RANI

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Goyal, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG Haryana.

Mr. Shreenath A.Khemka, Advocate
for respondent No.3.

HARSIMRAN SINGH SETHI, J. (Oral)

1 In the present petition, the challenge is to the award dated 03.11.2005, copy of which has been appended as Annexure P-5 on the ground that the petitioner had completed 240 days of service in a calendar year prior to termination and had a right for the grant of retrenchment compensation under Section 25F of the Industrial Disputes Act, 1947, which fact has not been appreciated by the Labour Court in the correct perspective hence, the impugned award dated 03.11.2005 (Annexure P-5) may kindly be set aside.

2. Learned counsel for the respondents submits that the impugned award dated 03.11.20005 (Annexure P-5) was passed in the year 2005

whereas the present writ petition has been filed after a period of 14 years, which is not permissible.

2. Learned counsel for the respondent further submits that a finding has been recorded by the Labour Court in the award impugned on the basis of the evidence brought on record that the petitioner never worked even for a single day with the respondent hence, she failed to prove that she had completed 240 days of service in a calendar year prior to the alleged termination hence, the award dated 03.11.2005 (Annexure P-5) may kindly be upheld.

3. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

4. It may be noticed that the award dated 03.11.2005 (Annexure P-5) was passed in the year 2005 having been challenged after a period of 1 ½ decade in the year 2019. The petitioner remained satisfied with the award for a period of 14 years.

5. It may be noticed that there has to be a time limit within which, the award dated 03.11.2005 (Annexure P-5) can be challenged. Even the void orders are to be challenged within a period of 3 years keeping in view the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.1852 of 1989 with Civil Appeal No.4772 of 1989 titled ***“State of Punjab Vs. Gurdev Singh and Ashok Kumar”*** decided on 21.08.1991, wherein it has been held that even a void order needs to be challenged within a period of 3 years. The relevant paragraph Nos.4, 8 and 11 of the said judgment is as under:-

“XXX.....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 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 "fight 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 fall 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 Art. 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 then 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 Wakil 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 ([State of Punjab v. Ajit Singh](#) (1988 (1) SLR 96) and (ii) [State of Punjab v. Ram Singh](#) (1986) (3)SLR 379) is not correct and stands over-ruled.XXX”*

6. In the present petition, the award dated 03.11.2005 (Annexure P-5) is being challenged after a period of 14 years and that too without giving any explanation why the same was not challenged during the said period after passing of the order and in case, the petitioner was aggrieved.

7. Not only this, the ground has been raised by the petitioner that she was not given retrenchment compensation as envisaged under Section 25-F of the Industrial Disputes Act, 1947. For realisation of the said claim,

an employee has to prove that he/she worked for a period of 240 days in the preceding 12 months prior to the date of termination. A categorical finding has been recorded by the Labour Court that no such evidence has been brought on record by the petitioner in order to prove the working for a period of 240 days in preceding 12 months. In the absence of any such evidence, to show that the said finding of the Labour Court is perverse to the facts or evidence on record, no interference can be done by this Court.

8. Learned counsel for the petitioner has not been able to prove from the evidence brought on record that the petitioner had worked for a period of 240 days in a calendar year prior to the termination especially when the respondents were able to prove that the petitioner has not worked for a period of one day.

9. Keeping in view the totality of the circumstances, as the petitioner had failed to prove that the finding recorded by the Labour Court are perverse to the facts and the evidence brought on record, no interference can be called for this Court in the facts and circumstances of the present case hence, the present petition stands dismissed.

10. Pending application, if any, also stands disposed of.

11-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO