



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

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CWP-34327-2025 (O&M)

Decided on : 26.11.2025

GURDEV SINGH

...Petitioner

Versus

UNION OF INDIA AND ORS

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. Shailendra Sharma, Advocate
for the petitioner.

Ms. Bhavana Datta, Senior Panel Counsel
for the UOI.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the challenge is to the impugned order dated 23.08.2024 (Annexure P-1) by which, the original application filed by the petitioner after 31 years of his dismissal from service, so as to grant him the pensionary benefits, has been rejected.

2. At the outset, on being asked as to whether, the petitioner can file an original application after 31 years of his dismissal from service after holding the summary court martial, learned counsel for the petitioner fairly concedes that after 31 years, the original application could not have been preferred but submits that as the issue raised was with regard to the pensionary benefits, the Tribunal should have liberally considered the issue rather than dismissing the same.

3. Learned counsel for the respondent submits that once, the pension is not admissible to an employee who has been dismissed from the service, till the said order of dismissal is set-aside, no pension is available



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hence, the claim of the pension, without adjudicating the order dated 25.07.1991 (Annexure P-3) by which, the petitioner was dismissed from service, is not possible and therefore, the Tribunal was very much within its jurisdiction to decline the relief as being claimed by the petitioner.

4. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

5. As per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.1852 of 1989 with Civil Appeal No. 4772 of 1989 titled as 'State of Punjab and others vs. Gurdev Singh and Ashok Kumar, decided on 21.08.1991,** that every order passed in case, causes prejudice, has to be challenged within a period of three years. The relevant paragraphs of the said judgment are 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.”*

6. It may be noticed that in the present case, the order dismissing the petitioner from the service is passed on 25.07.1991 (Annexure P-3)



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which has been challenged by him after a period of 30 years. No explanation has come as to why the petitioner remain silent for three decades so as to challenge the order of his dismissal from service.

7. Further, the Tribunal even found that on merits as well the order of dismissal of petitioner from service dated 25.07.1991 (Annexure P-3) was perfectly valid and the arguments that the principle of natural justice were violated during the conduct of summary Court Martial has not been proved.

8. The afore said findings has not been rebutted by the learned counsel for the petitioner while addressing the arguments in the Court today.

9. Keeping in view the totality of circumstances where there is inordinate delay of three decades in challenging the order dated 25.07.1991 (Annexure P-3) coupled with the fact that the order so passed dismissing the petitioner from service after holding a summary court martial has not been proved to be bad even on merits, ***no ground is made out for any interference by this Court in the facts and circumstances of the present case and the present petition is accordingly dismissed.***

10. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

26.11.2025

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No