



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

201

RSA-1206-1997 (O&M)

Date of decision : 16.02.2026

N.C. Sethi

....Appellant

Vs

The Punjab State Cooperative Supply and Marketing
Federation Limited and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Puneet Kumar Bansal, Advocate for the appellant.

Mr. Amaninder Preet, Advocate for the respondents.

NAMIT KUMAR, J. (ORAL)

1. The appellant has filed the instant Regular Second Appeal impugning the judgment and decree dated 15.04.1994, passed by learned Sub Judge IInd Class, Ferozepur, whereby a suit for declaration filed by the appellant/plaintiff has been dismissed as well as judgment and decree dated 23.07.1996, passed by learned District Judge, Ferozepur, whereby an appeal filed by the appellant/plaintiff against judgment and decree dated 15.04.1994, has also been dismissed. Parties to the lis are being referred to as per their original position before the Trial Court.

2. Brief facts of the case are that the plaintiff was working as a Field Officer in the Punjab State Cooperative Supply & Marketing Federation Limited (hereinafter referred to as 'Markfed'). While he was in service, he was placed under suspension, vide order dated 07.07.1980, and after issuance of a charge-sheet and holding of a departmental enquiry, he was dismissed from service vide order dated

21.01.1982. The said order of dismissal was assailed by the plaintiff by

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filing a suit before the Civil Court at Chandigarh which was decreed, vide judgment and decree dated 30.11.1985, and the first appeal preferred by the Markfed was dismissed by the First Appellate Court, vide judgment and decree dated 05.06.1987. Thereafter, the Regular Second Appeal filed by the Markfed against the judgments and decrees passed by the Courts below was also dismissed by this Court, vide order dated 02.02.1990. In the meanwhile, the plaintiff filed an execution petition dated 19.04.1988 for implementation of the decree dated 30.11.1985. Upon appearance of the official of the department before the Executing Court, in the month of April 1986, it was stated that the petitioner had already been dismissed from service in an another departmental inquiry, vide order dated 07.09.1984. Written objections to the execution petition were filed by the defendants on 16.07.1988. Thereafter, the plaintiff filed the present suit on 04.05.1991 impugning the order dated 07.09.1984, whereby he was dismissed from service.

3. Upon notice, defendants appeared and filed their reply and contested the suit of the plaintiff. On the basis of the pleadings of the parties, the following issues were framed :-

1. *Whether the impugned order dated 07.09.1984 is illegal, against service rules, null and void ? OPP*
2. *Whether the plaintiff is entitled to declaration as prayed for ? OPP*
3. *Whether the suit is time barred ? OPD*
4. *Whether the Hon'ble Court has no jurisdiction to try the present suit ? OPD*
5. *Relief.*

4. Both the parties were given due opportunities for leading their respective evidence and learned trial Court after appreciating the



evidence, dismissed the suit filed by the plaintiff on merits as well as on the question of limitation and it has been held that the suit filed by the plaintiff was time barred. The finding recorded by learned Trial Court on issue No.3 with regard to the limitation has been dealt with in the following manner :-

“Issue No.3

On this issue the Ld counsel for the plaintiff has argued that the plaintiff came to know about the impugned order in the execution proceedings filed by him against the defendants at Chandigarh in the year 1988. He further argued that no such impugned order was conveyed to the plaintiff. The present suit has been filed within the limitation i.e. from the date of knowledge about the impugned order. On the other hand the Ld. counsel for the defendants has argued that suit of the plaintiff is time barred as the impugned order was passed on 7.9.84 whereas the present suit was filed on 4.5.91 i.e. after 7 years. Limitation to file the suit for declaration is of 3 years. So, the present suit is time barred. The contention of the Ld counsel for the plaintiff that no impugned order of dated 7.9.1984 was conveyed to him is not tenable. Because, defendants have only proved the service of notice of the impugned order upon the plaintiff by producing the evidence of DW2 Vinod Kumar, DW3 Chiman Lal and DW5 S.S. Nagi. The Original parcel register containing the original receipt was produced in the court by DW2 Vinod Kumar and DW5 S.S.Nagi. DW5 S.S. Nagi has proved the entries in the said register the relevant time and has stated that he sent the notice through registered post to the plaintiff on 14.9.84 and the receipt issued by post and Telegraph department Chandigarh in the parcel branch register bearing the stamp of post office at Chandigarh was



also issued by him. Ex.D3 is the certified copy of it. This witness has further stated that he had not received the registered cover containing the impugned order as undelivered So, a strong presumption arises that impugned order was dully received by the plaintiff. A reference can be made of the case namely Kamal Bhatnagar Vs. S. Charles 1992 Civil Court Cases 21. Where it has been held that when a notice is sent by registered post, a presumption arises that notice has been served upon the addressee, if not received back. In this case also the impugned order was sent through registered cover but as per the statement of DW5 it was not received back. It has also been held by the Hon'ble High Court in case namely Om Parkash Vs. Dodewala Co-op Agricultural Service Society 1982 PLR 696 where it has been held that in case of notice issue under certificate of posting a presumption of issuing of the notice can be raised." Even otherwise also presumption of truth is attached to the service of the notice sent through registered post. The plea of the Ld. counsel for the plaintiff that there is a violation of rules of post and telegraph manual in sending the impugned order through registered cover is not tenable because, it only prescribes few guidelines which have no statutory force in the eye of law. In view of my above discussion I hold that the suit of the plaintiff is time barred. Reference can be made of the case namely State of Pb Vs Gurdev Singh & Ashok Kumar 1991(5) SLR 2(S.C).

Hence this issue is decided in favour of the defendants and against the plaintiff."

5. The findings recorded by the Trial Court have been upheld by the First Appellate Court, vide judgment and decree dated



23.07.1996. Aggrieved against the judgments and decrees passed by the Court below, the plaintiff has filed the instant Regular Second Appeal.

6. Learned counsel for the appellant/plaintiff submits that the appellant/plaintiff never received any communication from the respondents/defendants regarding the dismissal order dated 07.09.1984 and he came to know about the factum of passing of the said order only on 16.07.1988, when the respondents/defendants raised the objection in the execution proceedings before the Executing Court, Chandigarh. He further submits that both the Courts below erred in law in dismissing the suit filed by the appellant/plaintiff on the ground of limitation, as the same was filed within the period of limitation reckoned from the date of knowledge of the order of dismissal dated 07.09.1984. It is further contended that the impugned dismissal order was without jurisdiction, inasmuch as the Managing Director was not the competent authority to pass the said order at the relevant time. Learned counsel for the appellant/plaintiff further submits that since the appellant/plaintiff had already been dismissed from service vide order dated 21.01.1982, the respondents/defendants were not legally competent to pass a 2nd dismissal order dated 07.09.1984 against him. Therefore, the impugned judgments and decrees passed by the Courts below are illegal and liable to be set aside.

7. Per contra, learned counsel for the respondents submits that there is no illegality, perversity, or infirmity in the impugned judgments and decrees passed by the Courts below as the suit filed by the appellant/plaintiff is time barred as the order of dismissal was passed on



07.09.1984, whereas the suit was filed on 04.05.1991, i.e. after a lapse of about 07 years and limitation to file the suit for declaration is of 03 years. It is further contended that the Managing Director was the competent authority to pass the impugned order and that the 2nd dismissal order was legally sustainable, having been passed pursuant to a valid departmental enquiry. Accordingly, the judgments and decrees of both the Courts below do not call for any interference by this Court and therefore, the instant Regular Second Appeal deserves dismissal.

8. I have heard learned counsel for the parties and perused the Trial Court records with their able assistance.

9. There is no dispute with respect to the fact that the plaintiff was dismissed from service vide order dated 07.09.1984 in the second departmental enquiry, which was pending against him and was concluded during the pendency of the suit filed by the plaintiff impugning the dismissal order dated 21.01.1982. The present suit was filed by the plaintiff on 04.05.1991, i.e. after a lapse of about 07 years from the date of passing of dismissal order dated 07.09.1984. It was proved before the Courts below by the defendants, by leading cogent and overwhelming evidence, that the order of dismissal was duly sent to the plaintiff on 14.09.1984. In this manner, the suit was hopelessly time barred as the limitation for filing the suit for declaration is 03 years, whereas the same was filed after about 07 years. The said finding has been recorded by the Court below while relying upon the judgment of Hon'ble Supreme Court in *State of Punjab Vs. Gurdev Singh and another : 1991(5) SLR 2(S.C)*, wherein it has been held that even the



void orders are to be challenged within the prescribed period of limitation.

10. In view of the settled position of law that even a void, illegal, or non-est order is required to be challenged within the prescribed period of limitation, and that limitation begins to run from the date of passing of the order and not from the alleged date of knowledge, the suit filed by the plaintiff beyond the statutory period of 03 years was clearly barred by limitation. The Courts below have correctly applied the law while placing reliance on binding precedent and, therefore, no substantial question of law arises for consideration in the present appeal. Therefore, concurrent findings recorded by both the Courts below are legal and justified. Moreover, learned counsel representing the appellant has failed to show that the same are perverse, illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

11. Consequently, in view of the above, the present Regular Second Appeal, being devoid of merit, is hereby dismissed.

12. Pending applications, if any, shall stand disposed of accordingly.

16.02.2026
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No