



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

**RSA-327-1998 (O&M)
Reserved on :-30.01.2026
Date of Pronouncement:-04.02.2026
Uploaded on:-05.02.2026**

State of Punjab through Collector District Faridkot

... Appellant

Versus

Madan Mohan

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. I.S. Kingra, Senior DAG, Punjab.

None for the respondent.

VIRINDER AGGARWAL, J.

1. The appellant/defendant-State, being aggrieved by the judgment and decree dated 09.09.1997 of the learned District Judge, Faridkot, which reversed the well-reasoned judgment and decree dated 25.01.1995 of the learned Sub-Judge, 2nd Class, Faridkot, respectfully invokes the appellate jurisdiction of this Court through the present Regular Second Appeal (hereinafter referred to as “RSA”). The appellant seeks restoration of the decree rightly granted by the learned Trial Court and appropriate redress for the substantial miscarriage of justice occasioned by the impugned decree. It is respectfully submitted that the impugned judgment and decree are vitiated by manifest perversity, grave errors of



law, and is a fundamentally flawed appreciation of the evidentiary record, resulting in serious injustice..

2. The sequence of events antecedent to, and culminating in, the present appeal may be succinctly stated as follows:-

“It was averred by the plaintiff that he entered the service of the Punjab Government in the year 1969 as an Assistant Pump Driver in the pay scale of Rs. 42–50 and was subsequently promoted to the post of Pump Driver/Operator in the year 1975. It was pleaded that, vide memorandum dated 14.11.1970, the pay scale of the post of Pump Operator/Water Pump Mechanical was revised to Rs. 110–180.

It was further alleged that the post of Pump Operator is equivalent to the post of Water Pump Mechanical, as duly recognized vide memorandum dated 23.07.1972, and, consequently, the plaintiff became entitled to the revised pay scale of Rs. 110–180 with effect from 15.02.1970. It was pleaded that the said pay scale had already been granted to similarly situated Pump Operators, including one Varinder Kumar Joshi, who was serving in the Public Health Government Works Division, Bathinda.

The plaintiff alleged that despite being similarly circumstanced, he had been subjected to hostile discrimination and denied the benefit of the revised pay scale. It was pleaded that repeated representations made by the plaintiff to the defendants for grant of the said scale yielded no result. Thereafter, the plaintiff served a statutory notice under Section 80 of the Code of Civil Procedure upon the defendants; however, they failed to accede to his legitimate claim. On these averments, the plaintiff asserted that he was entitled to the declaratory relief as prayed for.”

3. Upon service of summons, the defendants appeared and filed their submissions as follows:-



“The suit was contested by the defendants, who raised preliminary objections to the maintainability thereof. It was pleaded that the suit was bad for non-joinder of necessary parties, that no valid notice under Section 80 of the Code of Civil Procedure had been served upon the defendants, that the suit was barred by limitation, and that it had not been properly valued for the purposes of court fee and jurisdiction.

***On merits,** it was admitted that the plaintiff had joined the service of the Punjab Government on 01.05.1968 as an Assistant Pump Driver in the pay scale of Rs. 42½ –52½ in the Bathinda Division, and a photocopy of his service book was annexed as Annexure ‘A’. However, it was specifically denied that the plaintiff was ever promoted to the post of Pump Driver. It was admitted that, vide memorandum No. 31397 dated 11.08.1971, the post of Water Pump Mechanic (Diesel and Electric) was granted the pay scale of Rs. 110–180.*

It was further pleaded that the letter dated 23.07.1972 did not establish that the post of Pump Operator was equivalent to the post of Water Pump Mechanic. It was asserted that the plaintiff was neither a Pump Operator nor a Water Pump Mechanic and, therefore, was not entitled to the claimed pay scale. On these grounds, it was contended that the suit was devoid of merit and liable to be dismissed.”

4. After a meticulous and exhaustive examination of the pleadings, documents, and submissions advanced by both parties, the learned Trial Court framed specific issues for adjudication to facilitate a clear, precise, and comprehensive determination of the respective claims and defenses. The issues so framed are as follows:-

1. *Whether the plaintiff is entitled to the grade 110-180 as prayed for?*

OPP.



2. *Whether the notice u/s 80 CPC has been served? OPP.*
3. *Whether any cause of action ever accrued to the plaintiff? OPP*
4. *Whether the suit of the plaintiff is bad for non-joinder of necessary parties? OPD,*
5. *Whether the suit is time barred? OPD,*
6. *Whether the suit has not been properly valued for the purpose of court fee? OPD.*
7. *Whether the plaintiff was promoted as Pump driver? OPP.*
8. *Whether the plaintiff was informed by the SDE vide his letter No. 2009 dt.18. 11.92 regarding rejection of his claim if so its effect? OPD*
9. *Relief.*

5. Both parties were granted a full and fair opportunity to lead evidence in support of their respective claims. Upon the conclusion of the trial and after hearing learned counsel for the parties at length, the learned Trial Court proceeded to **dismiss** the suit, recording the following observations:-

“In view of the findings recorded on the aforementioned issues, the suit filed by the plaintiff fails and is, accordingly, dismissed.”

6. Aggrieved by the judgment and decree of the learned Trial Court, the respondent/appellant preferred an appeal before the learned First Appellate Court. The learned First Appellate Court **allowed** the appeal, observing as follows: :-

“The judgment passed by the trial court is hereby set-aside, and a decree is passed declaring that the plaintiff is entitled to the pay scale of ₹110–180 with effect from 01.04.1975. The plaintiff is also held entitled to recover the arrears of pay due in respect of the said period.

The appeal is allowed with costs.”



6.1. Challenging the determinations of the learned First Appellate Court, the appellant/defendant-State instituted the present appeal. Upon admission of the appeal, notices were duly issued, whereas the respondent chose not to appear to contest the same. The records of the courts below are available on the DMS for detailed examination and adjudication.

7. I have heard learned counsel for the appellant and considered his submissions in conjunction with the pleadings, evidence, and findings recorded by the courts below. The entire record has been meticulously examined to determine “*whether the impugned judgment and decree are vitiated by any legal infirmity or error warranting interference by this Court*”?

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellant-State submitted that the judgment and decree rendered by the learned First Appellate Court is legally unsustainable, as the suit is hopelessly barred by limitation and



ought to have been dismissed on that ground alone, without entering into the merits of the controversy. It was further contended that the appellant-defendant had consistently raised the objection of limitation; however, both courts below failed to address this plea. The learned Sub-Judge had recorded that Issue No. 5, relating to limitation, was not pressed, while the learned First Appellate Court observed that the findings on Issue No. 5 had not been assailed. Learned counsel submitted that the suit is clearly barred by limitation, given that the plaintiff claims entitlement to the pay scale of Rs. 110–180 with effect from 15.02.1970, whereas the suit was instituted on 29.04.1993. In view of Article 58 of the Limitation Act, 1963, the period of limitation for such a claim is three years. Therefore, the suit having been filed nearly twenty years after the alleged cause of action, the appeal deserves to be allowed, and the impugned judgment and decree be set aside.

10. It is well-settled that the plea of limitation can be raised at any stage of the proceedings, including before the First Appellate Court or even in a higher appellate forum. Section 3 of the Limitation Act, 1963, imposes a duty on the court to determine whether a suit is instituted within the prescribed period of limitation. Where a suit is found to be barred by limitation, the court is obliged to dismiss it on that ground. This principle has been authoritatively recognized by the Hon'ble Apex Court in ***S. Shivraj Reddy (Dead) through his LRs. vs. S. Raghuraj Reddy and Others, 2024 INSC 427***, wherein it was held as under:-

15. *“In the facts and circumstances of the case, we find that the reasoning given by the learned Division Bench while dismissing LPA No. 47 of 2002, that the learned Single Judge ought not to have*



*considered the question of limitation as the defendants did not choose to raise the plea of limitation in the trial Court is ex facie erroneous. Law in this regard has been settled by this Court through a catena of decisions. We may refer to the judgment in the case of **V.M. Salgaocar and Bros. v. Board of Trustees of Port of Mormugao and Another**, wherein this Court held as follows:*

“20. The mandate of Section 3 of the Limitation Act is that it is the duty of the court to dismiss any suit instituted after the prescribed period of limitation irrespective of the fact that limitation has not been set up as a defence. If a suit is ex facie barred by the law of limitation, a court has no choice but to dismiss the same even if the defendant intentionally has not raised the plea of limitation.

*21. This Court in **Manindra Land & Building Corpn. Ltd. v. Bhutnath Banerjee [(1964) 3 SCR 495 : AIR 1964 SC 1336]** held (AIR para 9):-*

“Section 3 of the Limitation Act enjoins a court to dismiss any suit instituted, appeal preferred and application made, after the period of limitation prescribed therefor by Schedule I irrespective of the fact whether the opponent had set up the plea of limitation or not. It is the duty of the court not to proceed with the application if it is made beyond the period of limitation prescribed. The Court had no choice and if in construing the necessary provision of the Limitation Act or in determining which provision of the Limitation Act applies, the subordinate court comes to an erroneous decision, it is open to the court in revision to interfere with that conclusion as that conclusion led the court to assume or not to assume the jurisdiction to proceed with the determination of that matter.”

(emphasis supplied)



16. Thus, it is a settled law that even if the plea of limitation is not set up as a defence, the Court has to dismiss the suit if it is barred by limitation.”

11. In the said case, the Hon’ble Apex Court has unequivocally settled the law that even if the plea of limitation is not specifically raised as a defence, the Court is obliged to dismiss the suit if it is found to be barred by limitation. In the light of this settled principle, the plea of limitation raised by the appellant herein merits careful consideration.

12. The respondent/plaintiff claims entitlement to the relief from 15.02.1970, whereas the suit was instituted only on 29.04.1993. The plaintiff has specifically sought a declaration that he is entitled to the pay scale of ₹110–180 with effect from 15.02.1970.

12.1. The question that arises for determination is whether the suit was filed within the period of limitation. In this context, the Hon’ble Apex Court, in ***State of Punjab and Another vs. Balkaran Singh, AIR 2007 SC 641***, has held that a suit seeking declaration regarding pay scale must be filed within three years from the date on which the right to sue first accrued. In the said case, the plaintiff sought a declaration that an office order dated 13.03.1980, fixing his pay in the scale of ₹940–1850 instead of ₹1200–1850, was illegal, null and void, arbitrary, and without jurisdiction, and claimed entitlement to the pay scale of ₹1200–1850 w.e.f. 01.01.1978. The suit, however, was instituted on 20.12.1993. The Apex Court held that suit is bared by limitation. Claim in that suit was identical in nature to the claim of the respondent-plaintiff in the present proceedings and, therefore,



the present suit is barred by limitation. The relevant portion of the judgment reads as under:-

15. *"We shall first deal with the first two suits relating to the declaration that s. We the plaintiffs therein are entitled to be placed in the revised scale of pay of Rs. 1200-1850/-. The suits filed are for declaration that the order or endorsement dated 13.3.1980 was illegal and void. The suits were filed more than 12 years after the order fixing the revised scale of pay at Rs. 940-1850/-. A suit for declaration is governed by Article 58 of the Limitation Act and the period is three years and the terminus a quo is "when the right to sue first accrues" (Emphasis supplied). Clearly, the right to seek the relief of declaration that they are entitled to revised scale of pay of Rs. 1200-1850/-, accrued to the plaintiffs on 13.3.1980, when the endorsement in that behalf was made by the Director of Agricultural Services and the plaintiffs were denied revised pay at Rs. 1200-1850/- and were paid only at Rs. 940-1850/-. It was not the mere making of an order, but an action that had immediate impact on the right of the plaintiffs to recover a higher salary as per their claim. The cause of action thus clearly arose for the first time. Thus the suit for declaration was clearly barred by limitation going by Article 58 of the Limitation Act. The fact that some other officer had been given a decree for the enhanced revised scale, does not furnish the plaintiffs in the first two suits with a fresh cause of action. It is well settled that the time does not stop to run once it has started to run. Therefore, the reliance placed on the decree in Civil Suit No. 461 of 1991 had absolutely no relevance on this question. Strictly speaking, Civil Suit No. 461 of 1991 also ought not to have been decreed since that suit was clearly barred by limitation,*



since the order sought to be challenged in that suit of 1991 was also the order dated 13.3.1980. But in view of the decree passed therein, it is not for us now to go into the correctness or otherwise of the decision rendered therein. Suffice it to say that the said decision cannot give the plaintiffs a fresh cause of action. The time started to run when the right to sue first accrued to the plaintiff and that first accrual was clearly on 13.3.1980 and on expiry of 3 years therefrom, the suit for declaration became barred.

16. *It was argued on behalf of the plaintiffs, as was done in trial Court, that the cause of action must be held to be a recurring one and hence the suit must be held to be not barred by limitation. Reliance was placed on the decision in Amrit Lal Berry v. Collector of Central Excise, New Delhi and Others [(1975) 4 SCC 714]. That decision arose from a proceeding under Article 32 of the Constitution of India. It was not a suit. There was no occasion for this Court to consider the scope of Article 58 of the Limitation Act in that Writ Petition. It was only stated that when a citizen aggrieved by the action of the Government department had approached the Court and obtained declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievance to the court. This is hardly a defence to a plea based on Article 58 of the Limitation Act in respect of the relief of declaration with respect to an order which was issued twelve years prior to the suit and which immediately affected the pay receivable by them. In fact this Court in S.S. Rathore v. State of Madhya Pradesh (1989(4) SCC 582), a decision rendered by*



seven Hon'ble Judges, has clearly held in suits relating to service matters, that "yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58". In a series of subsequent decisions, this Court has held that a suit for declaration in matters relating to a service is governed by Article 58 of the Limitation Act, 1963. (See for instance, Mohd. Quaramuddin (Dead) by Lrs. v. State of A.P. [(1994) 5 SCC 118]; Vasant Ramchandara Deshpande v. State of Maharashtra and Ors. [(1997) 11 SCC 305]; Rajasthan State Road Transport Corporation and Ors. v. Nand Lal [1999 SCC (L&S) 658]). In State of Punjab and Ors. v. Gurdev Singh [(1991) 4 SCC 11], a three-Judge Bench of this Court held that a party aggrieved by the order, even if it is found to be void, has to approach the court for relief of declaration that the order against him is inoperative and void within three years of the order. It is one thing to say that the plaintiffs might make a claim that they must also be paid in future at the revised scale of pay of Rs. 1200-1850/- in view of the decision rendered in favour of another officer of the same department. But that does not enable them to revive a claim for the relief of declaration which had become long ago barred. A cause of action once barred does not get revived in such a case. Moreover, the decree that was granted in that case was only to the effect that the plaintiff therein was entitled to the scale of pay of Rs. 1200-1850/- with effect from 1.1.1978, which was attached to the post of Deputy Director of Agriculture instead of at Rs. 940-1850/-. As we have indicated that was not a suit in which Order 1, Rule 8 of Civil Procedure Code was invoked and there was no declaration granted that the endorsement or order dated 13.3.1980 was illegal and void, the prayer for which is made in



the first two suits. It may be noticed that Suit No. 461 of 1991 was concerned more with the effect of various disciplinary proceedings initiated against the plaintiff therein on the claim made by him in that suit. We are, therefore, constrained to hold that the relief of declaration sought for by the plaintiffs in the first two suits is clearly barred by limitation.

17. *Once the prayer for declaration sought for in the suits is found to be barred by limitation, it has to be noticed that the prayer that follows is only consequential on the relief of declaration. That prayer is to the effect that the plaintiff is entitled to the pay scale of Rs. 1200-1850/- as against the scale of pay of Rs. 940-1850/- with effect from 1.1.1978 and entitled for payment of all other service benefits including yearly increments, arrears and interest thereon at the rate of 18 per cent per annum up to the date of payment with effect from 1.1.1978. It must be noticed that there is no independent prayer for recovery of arrears of pay and the prayer is couched in such a manner that it can be understood only as consequential on the grant of the first relief. In other words, it is not an independent relief that could be granted even if the main prayer is declined. In that view, it has to be held that a consequential relief could not be granted in view of the fact that the main relief of declaration sought for has been held to be barred by limitation.”*

13. The present suit, in which the relief is claimed with effect from 15.02.1970 but instituted only on 29.04.1993, is clearly and hopelessly barred by limitation. In view of the provisions of Article 58 of the Limitation Act, 1963, and in light of the ratio of the Hon’ble Apex Court in **State of Punjab and Another vs. Balkaran Singh’s** case



(supra), the judgment and decree of the learned First Appellate Court cannot be sustained. The suit of the respondent-plaintiff is, therefore, held to be barred by limitation. Consequently, the appeal filed by the appellant-State is allowed, the impugned judgment and decree of the learned First Appellate Court is set aside, and the suit of the respondent-plaintiff is dismissed on the ground of limitation.

14. In view of the adjudication of the principal appeal, which stands finally disposed of on merits, all ancillary, interlocutory, or pending applications, if any, remaining on record are, by necessary implication, also disposed of. No separate orders are required in respect of such applications.

04.02.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No