

RSA-2144-2018 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

S.No.120

RSA-2144-2018 (O&M)

Date of Decision : 28.07.2025

Gurdip Singh

... Appellant

Versus

Punjab State and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Harjeet Singh Minhas, Advocate,
for the appellant.

PANKAJ JAIN, J. (Oral)

The plaintiff is in second appeal aggrieved of the judgment and decree passed by the Courts below whereby the suit filed by the plaintiff seeking decree of declaration to the effect that orders of punishment passed on 3.4.1987, 9.6.1988, 26.6.1989 and 1.6.1990 stand dismissed.

2. The Lower Appellate Court has non-suited the plaintiff holding that the suit having been filed on 21.04.2012 i.e. almost 22 years after suffering of the last order in the year 1990, the suit is hopelessly barred by time.

3. Counsel for the appellant has assailed the findings recorded by the Courts below. He submits that no objection with the respect to the suit being barred by limitation was raised by the respondent, the Court below has



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dismissed the suit filed by the plaintiff on the ground of delay. He further relies on plethora of judgments to submit that wrong fixation of pay being recurring cause of action, the suit filed by the plaintiff cannot be said to be barred by limitation. Reliance is being placed on the judgment of Supreme Court in **M.R.Gupta v. Union of India and others** reported as **95(4) RSJ 502**, **Aspinwall & Co. Kulshekar, Mangalore v. Lalitha Padugady and others** reported as **95 (4) RSJ 504**, **Ajaib Singh v. The Sirhind Co-Op Marketing-cum-Processing Service Society Limited** reported as **1999 AIR (SC) 1351**, of this Court in **Saroj Kumari and others v. The State of Punjab and others** reported as **1998(5) SLR 266**, **RSA-3472-1985 State of Punjab v. Shri Premjit and another** decided on 16.02.2010, **RSA-1094-1993 Kartar Singh v. State of Punjab and another** decided on 09.02.2012, **CWP-11653-2010 Surat Singh v. State of Punjab and others** decided on 01.05.2012 and of Gauhati High Court in **Patel Rugnath Pitambar Died v. Special Land Acquisition Officer** decided on **04.01.2022** & **Majir Ngomdir and others v. Mokal Bagra Head Gaon Bura and others** decided on 06.12.2021

4. I have heard the learned counsel for the appellant and have carefully gone through the record of the case.

5. Section 3 of the Limitation Act deals with Bar of Limitation. The first plea raised by Mr. Minhas is completely answered by Section 3 of the Limitation Act which reads as under : -

“3. **Bar of limitation.** – (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred and application made after the prescribed



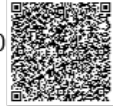
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period shall be dismissed, although limitation has not been set up as a defence.

- (2) For the purposes of this Act—
- (a) a suit is instituted—
 - (i) in an ordinary case, when the plaint is presented to the proper officer;
 - (ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and
 - (iii) in the case of a claim against a company which is being wound up by the court, when the clamant first sends in his claim to the official liquidator;
 - (b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—
 - (i) in the case of a set off, on the same date as the suit in which the set off is pleaded;
 - (ii) in the case of a counter claim, on the date on which the counter claim is made in court;
 - (c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.”

6. Section 3 of the Act casts duty upon the Court to dismiss the suit instituted, appeal preferred and application made after the prescribed period of limitation even though limitation has not been set up as a defence.

7. The judgments relied upon by Mr. Minhas to claim recurring cause of action in favour of the plaintiff-appellant are not applicable to the present case. In the plaint, the specific prayer made by the plaintiff reads as under : -



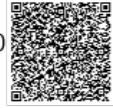
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“ That under the circumstances explained above, it is respectfully prayed that a decree for declaration to this effect that the orders bearing endst. No.1387-89/St/GM dated 3.4.1987, No.2492-93/St/GM dated 9.6.1988 passed by the defendant no.2 vide which one annual grade increment of the plaintiff has been stopped with future effect and reduced to minimum time scale of pay for 5 years respectively and the orders bearing endst. no.3356-58/ECC dated 26.6.1989 and 2922-24/ECC dated 1.6.1990 passed by the defendant no.3 vide which one and five annual grade increment of the plaintiff have been withheld with future effect respectively, are illegal, un-warranted, un-constitutional, contrary to the rules and principles of natural justice, therefore, null & void and not binding on the right of the plaintiff, with consequential relief in the form of mandatory injunction directing the defendants to fix/refix the pay and to pay the arrears with interest @ 18% thereof from the date till the date of actual payment, may kindly be passed in favour of the plaintiff and against the defendant with costs. Any other relief to which the plaintiff is found entitled under law and equity may also be granted in his favour”

8. Explicitly, the suit is for declaration qua orders of punishment dated 03.04.1987, 09.06.1988, 26.06.1989 and that dated 01.06.1990 to be illegal and void. The same would be governed by Article 58 of the Limitation Act which reads as under : -

Article 58.	To obtain any other declaration.	Three years	When the right to sue first accrues
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9. The limitation prescribed by law is 3 years and shall commence from the date when the right to sue first accrues. The reduction in pay owing to orders of punishment suffered by an employee is different from the anomaly in the fixation of pay that has crept in on account of mistake made



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by the employer. All the judgments referred to by Mr. Minhas deal with the situation where there was an anomaly in fixation of pay and not suit for declaration claiming order passed by the employer punishing the employee is illegal and void. The right to sue accrues on the day order of punishment is passed and communicated.

10. In the present case, since the employer passed orders after serving charge sheet and it is not disputed that copies of the orders were served upon the plaintiff, this Court does not find that the judgments relied upon by Mr. Minhas help the cause of the plaintiff in any manner and are applicable to the facts of instant case.

11. Finding no merit in the present appeal, the same is ordered to be dismissed.

12. Pending application, if any, stands disposed off.

**(PANKAJ JAIN)
JUDGE**

July 28, 2025

Paritosh Kumar

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