

A

STATE OF PUNJAB AND ANR.

v.

BALKARAN SINGH

OCTOBER 18, 2006

B

[H.K. SEMA AND P.K. BALASUBRAMANYAN, JJ.]

*Service Law:*

C *Pay scale—Revision of—Appointment/Promotion of plaintiffs as Agricultural Officer Class I on a scale of Rs.400-1250—Posted as Deputy Directors—Pay scale of Class I Officer enhanced to Rs.940-1850—Pay scale of Deputy Director revised to Rs.1200—1850—Order of endorsement by Director of Agriculture that plaintiffs were entitled to only Rs.940-1850—Challenge against —Held: Post of Deputy Director is not a promotional post and was inter changeable—Plaintiffs remained Class I officers, and therefore, were only entitled to Rs.940-1850—Fact that another officer was allowed pay scale of Rs.1200-1850 in a civil suit would not entitle plaintiffs to the higher pay scale moreso when that suit was not a representative suit—Decree passed wrongly in favour of one, would not mean that all others be given same relief when they were not so entitled as per rules—Punjab Agricultural Service Rules, 1974—Rule 11.*

D

E *Seniority list published in 1980 and in 1984—Suit filed in 1993 for seeking entitlement to seniority—Maintainability of—Held, Not maintainable being time-barred—Suit also barred by acquiescence and estoppel—No one in a service can sleep over the question of seniority for more than 12 years and then come to Court seeking a relief and upsetting seniority of number of persons—Delay/laches.*

F

*Jurisdiction:*

G *Jurisdiction of Civil Court—In matters relating to service—Held: Not so wide so as to enable civil court to sit in appeal over the actions of authorities.*

*Limitation Act, 1963:*

H

*Article 58—Director made an office order that plaintiffs were entitled to pay scale of Rs.940-1850—Plaintiffs demanded pay scale of Rs.1200-1850—Suit filed 12 years after office order—Maintainability of—Held, Not maintainable being clearly barred by limitation as right to seek relief of declaration accrued to plaintiffs on the date of office order.* A

The plaintiff in first suit was working as an officer of the Agricultural Department of the State. He was selected to the post of Deputy Director of Agriculture. The appointment order showed that he was appointed to Punjab Agricultural Services Class-I temporarily on a scale of Rs.400-1250. The pay scales were revised on 1.1.1978. The pay scale of Deputy Director in all Services was given as Rs.1200-1850. B C

When this decision to revise the pay-scale was brought to the notice of the Director of Agriculture, he found that in the Agricultural Department there was no post of Deputy Director as such and that the appointment of all those working as Deputy Directors was only to Punjab Agricultural Service Class-I and that the scale of pay of Class-I officers in the original scale of Rs.400-1250/- had been enhanced to Rs. 940-1850/-. He therefore made an endorsement dated 13.3.1980, that the revised scale of pay of Deputy Directors in the Agricultural Department, they being officers of Class-I was only Rs.940-1850/- and consequently that amount alone was payable. The plaintiff was being paid salary only at that scale from 1.1.1978. The plaintiff came to Court challenging that order only on 20.12.1993, more than 12 years after the order or endorsement. The case of the plaintiff was that in the case of one Mewa Singh, who was also a Deputy Director, the Court had passed a decree in the year 1991 declaring him entitled to the pay-scale of Rs.1200-1850/- and hence he is also entitled to the same pay scale. D E

The plaintiff in second suit was a class-II officer, promoted as Class-I officer on a pay scale of Rs.400-1250 and was posted as Deputy Director, Agriculture. He also filed the suit. The prayer in his plaint was identical with the one made in the first suit. F

The plaintiff in third suit was recruited as Class-I Officer in Punjab Agriculture Service. He had been placed in the revised pay scale of Rs.940-1850. He filed suit no.461 of 1991 challenging the same and claiming that he was entitled to arrears of pay at the scale of Rs.1200-1850 and the same was decreed in his favour. The said decision had become final. In view of the said decision, plaintiff filed suit praying that he is entitled to seniority on the basis of higher pay drawn by him as against the officers who were placed in G H

A lower pay scale.

Trial Court passed decree in three suits. Appellate Court confirmed the decrees. High Court dismissed the appeal filed by State. Hence these appeals.

Allowing the appeals, the Court

B HELD: 1.1. The first two suits are relating to the declaration that the plaintiffs are entitled to be placed in the revised scale of pay of Rs.1200-1850 and 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  
 C Limitation Act and the period is three years and the terminus au quo is "when the right to sue first accrues". Clearly, the right to seek the relief of declaration accrued to the plaintiffs on 13.3.1980, when the endorsement in that behalf was made 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  
 D 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. [310-C-F]

E 1.2. 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. 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  
 F therefrom, the suit for declaration became barred. [310-F-G; 311-A]

G *Mohd. Quaramuddin (Dead) by Lrs. v. State of A.P.*, [1994] 5 SCC 118; *Vasanti Ramchandara Deshpande v. State of Maharashtra & Ors.*, [1997] 11 SCC 305 and *Rajasthan State Road Transport Corporation & Ors. v. Nand Lal*, [1999] SCC (L & S) 658, relied on.

*Amrit Lal Berry v. Collector of Central Excise, New Delhi & Ors.*, [1975] 4 SCC 714; *S.S. Rathore v. State of Madhya Pradesh*, [1989] 4 SCC 582 and *State of Punjab & Ors. v. Gurdev Singh*, [1991] 4 SCC 1, referred to.

H 1.3. Once the prayer for declaration sought for in the suits is found to

be barred by limitation, 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. There is no independent prayer for recovery of arrears of pay. The prayer is couched in such a manner that it can be understood only as consequential on the grant of the first relief. In that view, 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. [312-C-E]

2. Regarding the revised scale of pay, it has to be seen that the plaintiffs are governed by the Punjab Agricultural Service Rules, 1974. Under Rule 11, the post of Deputy Director is not a promotional post for Punjab Agricultural Service Officers Class-I. The orders of appointment relied on by the two plaintiffs also clearly show that one was temporarily appointed to Punjab Agricultural Service Class-I, and the other was promoted as Agricultural Officer Class-I, but were posted as Deputy Directors. Therefore, the appointment in one and the promotion in the other of the plaintiffs are as Agricultural Officers Class-I. Their scale of pay was Rs.400-1250/-. The said scale of pay has been revised to Rs.940-1850/-. Therefore, they are entitled to revised pay only at the scale of pay of Rs.940-1850/- and not to any other higher pay. It is a fact that in the communication of the Government, the cadre of Deputy Directors are shown to be fitted in the revised scale of pay of Rs.1200-1850/-. But, the Director of Agriculture, obviously considering the nature of the service in the Agricultural Department, rightly noting there was no cadre post of Deputy Director in the department and some Agricultural Officers, Class-I were posted as Deputy Directors and some others as Chief Agricultural Officers, etc. only for administrative reasons and the posts were interchangeable and the concerned officer remained an officer of Class-I, endorsed that the scale of pay of Rs.1200-1850/- does not apply to those working as Deputy Directors in the Agricultural Department. The correct position was adopted by the Director of Agriculture and the order or endorsement made by him on 13.3.1980 was clearly correct and legal.

[312-F-H, 313-A-C]

3. The argument that since in Civil Suit No. 461 of 1991, one other officer who was working as Deputy Director was found entitled to the revised scale of pay of Rs.1200-1850/-, all Class-I officers must be given the same pay cannot be accepted. If such a plea is accepted, it will result in equals being

A treated unequals in that those appointed with the plaintiffs but who have been posted as Agricultural Officers Class-I or as Chief Agricultural Officers holding interchangeable posts would only be entitled to the scale of pay of Rs.940-1850/- and certain persons among Class-I officers who were fortuitously working as Deputy Directors, would be getting the higher scale of pay at Rs.1200-1850. Surely, such a situation cannot be brought about and the result of the acceptance of the plea based on the decree in Civil Suit No. 461 of 1991 would be that. Moreover, this Court cannot be controlled by a wrong decision of a trial court, unless of course, it operates as *res judicata*. Therefore, the plea based on the decree in Civil Suit No. 461 of 1991 is overruled. The suit was not a representative action. No doubt, the Government cannot treat different officers of same cadre differently. But, merely because a decree was passed wrongly in favour of one of them, would not mean that all others should be given the same relief, when going by the relevant rules and orders of appointment it is clear that the plaintiffs are only Class-I officers appointed in the scale of pay of Rs.400-1250/-, whose pay has been revised to the scale of pay of Rs.940-1850/-. [313-D-H]

4. The prayer in the third suit filed on 6.5.1993 is to set at naught the seniority lists published in the year 1980 and in the year 1984. On the face of it, the prayer for declaration is barred by limitation. The suit is governed by Article 58 of the Limitation Act and the impact of the publication of the seniority list was felt by the plaintiff on the issue of that list and when others were placed above him. The cause of action therefore arose in 1980 and in 1984. Then the suit is also barred by acquiescence and estoppel. No one in a service can sleep over the question of seniority for more than 12 years and then come to court seeking a relief which will upset the seniority of a number of persons who had been shown as seniors in the respective seniority lists. Therefore, on the face of it, a declaratory relief that will have the effect of altering a twelve year old and a nine year old seniority list could not have been granted by the courts below. [314-B-E]

5. In matters relating to service, the jurisdiction of the Civil Court cannot be considered to be so wide that it would enable it to sit in appeal over disciplinary proceedings, over the quantum of punishment imposed, over the entries in confidential records, and so on, in respect of which reliefs are seen to be freely granted by the courts in the States of Punjab and Haryana. In the case of grant of reliefs in matters relating to services, the High Court ought to make a deeper scrutiny of the decrees to see whether the Civil Court has overstepped its jurisdiction in granting the reliefs instead of simply rejecting

the Second appeals on the basis that concurrent findings have been rendered by the trial court and the first appellate court. The High Court made no attempt to see for itself whether on the basis of the rules and the arguments put forward on behalf of the State, the respective plaintiffs could be fitted in the scale of pay of Rs.1200-1850/- and in the third suit where the earlier decree became final, whether the reliefs claimed could be granted merely on the ground that there was an earlier decree in favour of the plaintiff therein granting him a higher scale of pay. Similarly, the question of limitation was disposed of even without referring to the relevant article in the schedule to the Limitation Act that had application and without considering whether it was open to any court to upset a seniority list of the year 1980 in a suit of the year 1993 even when all the affected parties were not impleaded or were not before the Court. The Second Appeals were dismissed in a cursory and most unsatisfactory manner by the High Court. [309-E-H, 310-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5847 of 2005.

From the Final Judgement and Order dated 20.5.2004 of the High Court of Punjab and Haryana at Chandigarh in R.S.A. No. 3254/2003.

With C.A. Nos. 5854 and 5853 of 2005.

H.M. Singh, Kaushal Yadav, Shabana Saifi and Arun K. Sinha for the Appellants.

Balkaran Singh, Respondent-In-Person in C.A. No. 5847/2005.

K.G. Bhagat and Debasis Misra for the Respondent in C.A. No. 5853/2005.

The Judgment of the Court was delivered by

**P.K. BALASUBRAMANYAN, J.** 1. These appeals by special leave are by the State of Punjab and its Director of Agriculture. They challenge the judgments and decrees in three different suits filed by three officers of the Agricultural Department of the State, essentially claiming pay at enhanced scale in two of the suits and seniority over certain others in the third suit. Civil Appeal Nos. 5847 of 2005 and 5854 of 2005 go together and the issue involved in C.A. No. 5853 of 2005 is slightly different though based on the same claim. The suits were decreed by the trial court. The decrees were

A affirmed in appeal. The Second Appellate Court declined to interfere. Hence these appeals.

*C.A. NO. 5847 OF 2005*

2. The respondent herein, hereinafter referred to as the plaintiff, filed  
B Civil Suit No. 665 of 1993 on 20.12.1993 in the Court of Senior Subordinate  
Judge, Chandigarh praying for a declaration that the Office Order dated  
13.3.1980 passed by the Director of Agriculture, Punjab in fixing the pay of  
the plaintiff in the scale of Rs. 940-1850/- instead of in the scale of Rs.1200-  
1850/- is illegal, null, void, arbitrary, without jurisdiction and against the  
C principles of natural justice and equity, for a declaration that the plaintiff is  
entitled for the pay scale of Rs.1200-1850/- as against Rs. 940-1850/-with  
effect from 1.1.1978 applicable to the post of Deputy Director of Agriculture  
and entitled to the payment of all other service benefits including yearly  
increments, arrears and interest thereon at the rate of 18 per cent per annum  
with effect from 1.1.1978 till the date of payment with costs of the suit. At  
D the time of the suit, the plaintiff was working as a Joint Director, Agriculture  
and was on deputation in The Punjab Land Development and Reclamation  
Corporation Limited. The plaintiff was selected, according to him, to the post  
of Deputy Director of Agriculture. But the order of appointment produced by  
him and marked as Exhibit P-I shows that the plaintiff was appointed to  
E Punjab Agricultural Services Class-I temporarily by direct recruitment in the  
time scale of Rs.400-30-550/40-750/50-1250 and was posted as Deputy  
Director of Agriculture (Pulses), Bhatinda. The plaint proceeds on the basis  
that on the recommendations of the Third Pay Commission, the Government  
of Punjab revised the pay-scales of its employees from 1.1.1978. The pay-  
scale of Deputy Directors in all services was given as Rs.1200-1850/- from  
F the old scale of Rs.400-1250/-. When this decision to revise the pay-scale  
was brought to the notice of the Director of Agriculture, he found that in the  
Agricultural Department there was no post of Deputy Director as such and  
that the appointment of all those working as Deputy Directors was only to  
Punjab Agricultural Service Class-I and that the scale of pay of Class-I officers  
G in the original scale of Rs.400-1250/- had been enhanced only to Rs. 940-  
1850/-. He therefore made an endorsement that the revised scale of pay of  
Deputy Directors in the Agricultural Department, they being officers of Class-  
I was only Rs. 940-1850/- and consequently that amount alone was payable.  
It may be noted that this endorsement was made as early as on 13.3.1980.  
The plaintiff was being paid salary only at that scale from 1.1.1978. The  
H plaintiff came to Court challenging that order only on 20.12.1993, more than

12 years after the order or endorsement. The case of the plaintiff was that in the case of one Mewa Singh, who was also a Deputy Director, the Court had passed a decree in the year 1991 declaring him entitled to the pay-scale of Rs.1200-1850/- and when that was done and the State accepted the said decision and paid Mewa Singh, the plaintiff issued a notice under Section 80 of the Code of Civil Procedure and that notice not having been responded to by the defendants, he was filing the suit. It is appropriate to refer to paragraph 9 of the plaint in this connection. The plaintiff pleaded:

“That cause of action firstly arose in 1980 when the plaintiff became eligible for the revised pay scale of Rs.1200-1850/- with effect from 1.1.1978 as per Annexure P-2, thereafter the cause of action arose on 23.10.1992, when the pay of Shri Mewa Singh Sonar was fixed in the scale of Rs.1200-1850/- by Defendant No.2, but the plaintiff was not given the same scale and finally on 16.6.1993, when legal notice under Section 80 of the Code of Civil Procedure was served upon the defendants.”

3. As noticed, the claim of plaintiff was that he had been appointed as a Deputy Director even initially and the revised scale of pay of Deputy Directors had been shown in the concerned Order as Rs.1200-1850/- and consequently, he is entitled to salary at that scale from 1.1.1978 as per the recommendations of the Third Pay Commission accepted by the State of Punjab and brought into effect.

4. The defendants filed a written statement denying the claim of the plaintiff that he was appointed as a Deputy Director. It was pointed out with reference to the Order of appointment relied on by the plaintiff himself, that he was temporarily appointed to the post of Punjab Agricultural Service Class-I officer, on a scale of pay of Rs.400-1250/- and that scale had been revised with effect from 1.1.1978 only to Rs. 940-1850/- and hence the plaintiff was not entitled to the higher scale of pay as claimed by him. It was further pleaded that the post of Deputy Director in which the plaintiff was intermittently working was only an interchangeable post manned by Class-I officers in the Punjab Agricultural Service. It was also pleaded that going by Rule 11 of the Punjab Agricultural Service (Class-I) Rules, 1974, the position of Deputy Director was not a promotion post for a Class-I Officer and consequently the claim of the appellant that he was holding a post higher than that of a Class-I officer, was untenable. It was an interchangeable post that he was holding and he had himself worked as Class-I officer during his

A career and had also occasionally worked as Deputy Director. It was pleaded that the decision in Mewa Singh's case had no application and could not be made use of for grant reliefs to the plaintiff. It was also specifically pleaded that the suit was barred by limitation, the cause of action for the relief of declaration having arisen as early as on 13.3.1980 and the suit having been filed only on 20.12.1993. It was also pleaded that no decree could be granted for so-called arrears from 1.1.1978 as claimed in the plaint. We may incidentally notice that the plaintiff has not quantified or valued any arrears as due to him.

*C.A. NO. 5854 OF 2005*

C 5. The facts of this case are also on a par with the litigation giving rise to C.A. No. 5847 of 2005. Here, the plaintiff, who was appointed as a Class-II officer was promoted as Class-I Officer on a scale of pay of Rs.400-1250/ by Order dated 10.6.1977 and was posted as Deputy Director, Agriculture (I.C.D.P.), Mukhtasar. The Civil Suit No. 894 of 1993 was filed on 25.11.1993.

D The prayers in the plaint are identical with the ones in Civil Suit No. 665 of 1993 giving rise to C.A. No. 5847 of 2005. The claim is also made on the same basis. The suit was resisted on the same lines by the defendants. The question that has to be tackled herein is the same as the one arising in C.A. No. 5847 of 2005 including the question of limitation and hence no separate discussion is needed.

*C.A. NO. 5853 OF 2005*

F 6. The respondent- plaintiff filed Civil Suit No. 82 of 1993 on 6.5.1993 praying for a declaration that he was legally entitled to be placed at Serial No. 12 instead of at Serial No. 20 in the seniority list prepared in the year 1980 of the Punjab Agricultural Service Class-I (Administrative) officers of the Agricultural Department issued by the Punjab Government on 26.2.1980 and for a mandatory injunction directing the defendant-State of Punjab, to fix the seniority of the plaintiff at Serial No. 12 in the Seniority List of Class-I Officers of the Agricultural Department prepared in the year 1980 and

G granting the plaintiff proforma promotions in accordance with his actual seniority in the Department with retrospective effect after placing him at Serial No. 12 in the Seniority List. He also prayed for a mandatory injunction directing the defendant to release the arrears of his pay and emoluments along with interest at the rate of 18 per cent per annum from the dates when

H they became due till their actual recovery in view of his denied promotions to which he was legally entitled to and also to grant him all the service

benefits and arrears from the back date to which he was found legally entitled to in the facts and circumstances of the case. A

7. Subsequently, the plaint was amended and the State of Punjab, the original Defendant was ranked as Defendant No.1 and four other officers in the Agricultural Department were impleaded as Defendants 2 to 5. One officer Sukhdev Singh, who was shown as senior and promoted earlier and with reference to whom a specific relief was claimed was not impleaded apparently on the basis that he had since retired. The plaintiff also included in the amended plaint a further prayer as regards the seniority list of the years 1984 and 1985 and seeking the placing of the plaintiff at Serial No. 15 instead of at Serial No. 21. B C

8. In addition to the factual position that was identical with the other two suits, in that the plaintiff was also recruited initially only as a Class-I officer in the Punjab Agricultural Service, one further fact that was relied on by the plaintiff was that though he had been placed in the revised scale of pay at Rs.940-1850/-, he had filed a suit being Civil Suit No.461 of 1991 challenging the order fixing his revised scale of pay of Rs.940-1850/- and claiming that he was entitled to arrears of pay at the scale of Rs. 1200-1850/- and the same was decreed in his favour, upholding his prayer and directing that payment of salary including arrears be paid to him in the scale of Rs.1200-1850/- and that the said decision had become final. In view of the said decision, it was the contention of the plaintiff that the first defendant could not deny the seniority that would be due to him based on the higher pay thus drawn by him as against the officers who were placed in a lower scale of pay. D E

9. It may be noted that the plaintiff had pleaded that the cause of action arose in his favour on the refusal of the defendant-State to grant the relief claimed by him in the plaint by sending a notice under Section 80 of the Code of Civil Procedure and that the cause of action had also arisen earlier on 3.10.1991 as the plaintiff's previous suit was decreed by the trial court. F

10. The suit was resisted by the first defendant-State by contending that the plaintiff was recruited temporarily only as an officer in Punjab Agricultural Service Class-I on a scale of pay of Rs.400-1250/- and he could be fitted only in the revised scale of pay of Rs.940-1850/- and that his seniority cannot be re-fixed as claimed by him since even in the recruitment he was placed junior to those officers. The State, no doubt, had to concede that the decree in Civil Suit No. 461 of 1991 had become final. It was pleaded that the present suit G

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A was barred by limitation and that the seniority that was fixed in the year 1980 and in the years 1984 and 1985 could not be upset or revised in the suit filed in the year 1993 and that merely because the State has been forced to give the plaintiff a higher scale of pay, the plaintiff could not claim seniority over other officers. All the necessary parties have not been impleaded. The suit was liable to be dismissed. Defendant No.2 was removed from the array of parties. Two of the other defendants filed a written statement, more or less, along the same lines as that of the State.

11. In all the three suits, the trial court raised issues as to whether the respective plaintiff would be entitled to the revised scale of pay of Rs.1200-1850/- instead of at Rs.940-1850/- and whether the suits were barred by limitation. In the suits giving rise to C.A. No. 5847 of 2005 and C.A. No. 5454 of 2005, the trial court held that in view of the letter sanctioning the revised pay scale indicating the scale of pay of Deputy Directors as Rs.1200-1850/-, the endorsement of the Director of Agriculture that the revised scale of pay of Rs.940-1850/- alone was payable was wrong. The court shut its eyes to the contention that the plaintiffs were only recruited as Punjab Agricultural Service Class-I officers on a scale of pay of Rs.400-1250/- and the revised scale for that pay was only Rs.940-1850/- and that the post of Deputy Director held by the plaintiffs was an interchangeable post and the plaintiffs themselves had held the post of Class-I officers during all these years alternately and that in the light of Rule 11 of the relevant rules, the plaintiffs could not be considered to be holding any promotional post. The trial court purported to rely upon the decision in Civil Suit No. 461 of 1991 and the fact that the State was forced to concede the scale of pay of Rs.1200-1850/- to Mewa Singh, the plaintiff therein, to hold that all those officers of Class-I who at one time or the other worked as Deputy Directors, would be entitled to the scale of pay of Rs.1200-1850/-. It was not borne in mind that Civil Suit No. 461 of 1991 was not a representative action, though of course it related to an officer similarly situated and the decision in that suit might have evidentiary value but could not be understood as barring a proper enquiry into the contentions by the trial court. On the issue of limitation, the trial court stated that the relief of declaration was not barred by limitation because the right to seek the fixation of pay as per rules could not be held to be barred by limitation presumably on the ground that it was a recurring cause of action. The issue was disposed of in a most unsatisfactory and cursory fashion by the trial court even without advertence to the relevant article of the Limitation Act. In the third suit, the trial court relied entirely on the earlier H decree in Civil Suit No. 461 of 1991 and proceeded to upset the seniority list

of 1980 in the suit of the year 1993 by a judgment dated 7.8.1997 and granted a declaration that Mewa Singh, the plaintiff therein, is entitled to be placed at Serial No.12 instead of at Serial No. 20 in the seniority list issued on 26.2.1980 and at Serial No. 15 instead of at Serial No. 21 in the seniority list prepared in the year 1984-85. The State was directed to consider the case of the plaintiff for fixation of seniority as claimed by the plaintiff. In the event of grant of the said seniority, it was directed that the plaintiff would be entitled to all the benefits of service. He shall be posted as per the seniority. An order was to be passed within two months from the date of the decree.

12. The State appealed against these decrees. The appellate court simply followed the line adopted by the trial court without a proper and independent application of mind and confirmed the decrees. It noticed that the seniority list was issued in the year 1980 and in the year 1984, but stated that at that stage it was not established that the post of Deputy Director enjoys higher rank and status as compared to the other officers and since a finding in that regard was recorded only on 3.10.1993 in the prior suit, the present suits could be held to be within time. Thus the appeals were dismissed.

13. The State filed Second Appeals before the High Court of Punjab and Haryana. The High Court, we are constrained to point out, without a proper application of mind, simply dismissed the Second Appeals, without even considering or attempting to answer properly the issues that arose for decision in the case. It appears to us that in matters relating to service, the jurisdiction of the Civil Court cannot be considered to be so wide that it would enable it to sit in appeal over disciplinary proceedings, over the quantum of punishment imposed, over the entries in confidential records, and so on, in respect of which reliefs are seen to be freely granted by the courts in the States of Punjab and Haryana. In the case of grant of reliefs in matters relating to services, we feel that the High Court ought to make a deeper scrutiny of the decrees to see whether the Civil Court has overstepped its jurisdiction in granting the reliefs instead of simply rejecting the Second appeals on the basis that concurrent findings have been rendered by the trial court and the first appellate court. In the case on hand, the High Court made no attempt to see for itself whether on the basis of the rules and the arguments put forward on behalf of the State, the respective plaintiffs could be fitted in the scale of pay of Rs.1200-1850/- and in the third suit where the earlier decree became final, whether the reliefs claimed could be granted merely on the ground that there was an earlier decree in favour of the plaintiff therein granting him a higher scale of pay. Similarly, the question of limitation was

A disposed of even without referring to the relevant article in the schedule to the Limitation Act that had application and without considering whether it was open to any court to upset a seniority list of the year 1980 in a suit of the year 1993 even when all the affected parties were not impleaded or were not before the Court. It is for these reasons that we are constrained to observe that the Second Appeals were dismissed in a cursory and most unsatisfactory manner by the High Court. The State has challenged these decisions by way of these Civil Appeals.

14. The respondent in Civil Appeal No.5853 of 2005 died pending the appeal in this Court and his legal representatives were brought on record. Their counsel was also heard.

15. We shall first deal with the first two suits relating to the declaration that 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 au 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 & Ors.*, [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 S.C.C. 118, *Vasant Ramchandara Deshpande v. State of Maharashtra & Ors.*, [1997] 11 S.C.C. 305, *Rajasthan State Road Transport Corporation & Ors. v. Nand Lal*, [1999] S.C.C. (L & S) 658 }. In *State of Punjab & Ors. v. Gurdev Singh* [1991] 4 S.C.C. 1, 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

A 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 I Rule 8 of Code of Civil Procedure 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.

C 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.

F 18. Now coming to the merits of the contention regarding the revised scale of pay, it has to be seen that the plaintiffs are governed by the Punjab Agricultural Service Rules, 1974. Going by the rules, under Rule 11, the post of Deputy Director is not a promotional post for Punjab Agricultural Service Officers Class-I. The orders of appointment relied on by the two plaintiffs also clearly show that one was temporarily appointed to Punjab Agricultural Service Class-I, and the other was promoted as Officer Class-I, but were posted as Deputy Directors. Therefore, the appointment in one and the promotion in the other of the plaintiffs are as Agricultural Officers Class-I. Their scale of pay was Rs.400-1250/-. The said scale of pay has been revised to Rs.940-1850/-. Therefore, they are entitled to revised pay only at the scale of pay of Rs.940-1850/- and not to any other higher pay. It is a fact that in the communication of the Government, the cadre of Deputy Directors are shown to be fitted in the revised scale of pay of Rs.1200-1850/-. But, the

Director of Agriculture, obviously considering the nature of the service in the Agricultural Department, rightly noting there was no cadre post of Deputy Director in the department and some Agricultural Officers, Class-I were posted as Deputy Directors and some others as Chief Agricultural Officers, etc. only for administrative reasons and the posts were interchangeable and the concerned officer remained an officer of Class-I, endorsed that the scale of pay of Rs.1200-1850/- does not apply to those working as Deputy Directors in the Agricultural Department. We find that the correct position was adopted by the Director of Agriculture and the order or endorsement made by him on 13.3.1980 was clearly correct and legal and in the face of the orders of appointment Exhibit P-1 produced by the plaintiffs, they cannot be heard to say that they were appointed to a post other than that of a Class-I officer in the Punjab Agricultural Service. The courts below have not considered the rules and the position emerging therefrom and the position obtaining in the service while considering this question and thereby they have gone wrong in their conclusion.

19. It is argued that since in Civil Suit No. 461 of 1991 one other officer who was working as Deputy Director was found entitled to the revised scale of pay of Rs.1200-1850/-, all Class-I officers must be given the same pay cannot be accepted. If such a plea is accepted, it will result in equals being treated unequals in that those appointed with the plaintiffs but who have been posted as Agricultural Officers Class-I or as Chief Agricultural Officers holding interchangeable posts would only be entitled to the scale of pay of Rs.940-1850/- and certain persons among Class-I officers who were fortuitously working as Deputy Directors, would be getting the higher scale of pay at Rs.1200-1850. Surely, such a situation cannot be brought about and the result of the acceptance of the plea based on the decree in Civil Suit No. 461 of 1991 would be that. Moreover, this Court cannot be controlled by a wrong decision of a trial court, unless of course, it operates as res judicata. Therefore, the plea based on the decree in Civil Suit No. 461 of 1991 is overruled. We have already pointed out that the said suit was not a representative action. No doubt, the Government cannot treat different officers of same cadre differently. But, merely because a decree was passed in favour of one of them-according to us wrongly-would not mean that all others should be given the same relief, when going by the relevant rules and orders of appointment it is clear that the plaintiffs are only Class-I officers appointed in the scale of pay of Rs.400-1250/-, whose pay has been revised to the scale of pay of Rs.940-1850/-.

A 20. In the view we have taken, the argument of the plaintiff based on the Punjab Horticultural Service (Class-I) Rules, 1990, has no substance. Those rules cannot have any application to the question involved here. The result of this discussion would be that the decrees granted by the courts below in the two suits, i.e., Civil Suit No. 665 of 1993 and Civil Suit No. 894 of 1993 are unsustainable in law and the decrees deserve to be reversed.

B 21. Coming to the third suit, Civil Suit No. 82 of 2003, we have found that the prayer in the suit filed on 6.5.1993 is to set at naught the seniority lists published in the year 1980 and in the year 1984. On the face of it, the prayer for declaration is barred by limitation. The suit is governed by Article C 58 of the Limitation Act and the impact of the publication of the seniority list was felt by the plaintiff on the issue of that list and when others were placed above him. The cause of action therefore arose in 1980 and in 1984.

D 22. According to us, the suit is also barred by acquiescence and estoppel. No one in a service can sleep over the question of seniority for more than 12 years and then come to court seeking a relief which will upset the seniority of a number of persons who had been shown as seniors in the respective seniority lists. Therefore, on the face of it, a declaratory relief that will have the effect of altering a twelve year old and a nine year old seniority list could not have been granted by the courts below.

E 23. Then the only question is whether in view of the earlier decree in Civil Suit No. 461 of 1991 obtained by the present plaintiff, he would be placed in a better position regarding his entitlement to have the seniority list upset at this distance of time. We have already indicated the scope of the decree granted in the earlier suit. It merely found that the disciplinary actions F initiated against the plaintiff did not affect his claim to be given the revised scale of pay of Rs.1200-1850/- and that he was entitled to it notwithstanding the endorsement made otherwise by the Director of Agricultural Services. The fact that he had obtained such a relief and that relief had become final would not entitle him or enable him to seek the setting aside of the seniority list merely on the ground that he had been put on a higher pay scale than his G colleagues who were otherwise senior to him in service. All those, who will be affected have also not been impleaded.

H 24. We do not think it necessary for the purposes of these appeals to consider how far a Civil Court can enter into the arena to decide upon the question of inter se seniority in Government service. We also do not think it

necessary to go into the question of the extent of the jurisdiction of the civil court, when they entertain suits relating to matters of service, especially government service, seeking the expunction of adverse entries, striking down of punishments imposed by the authority after holding a proper enquiry, as if the court was sitting in appeal, as to which scale of pay a person should be fitted in, and so on. Anyway, these questions will have to be examined as and when the occasion for it arises. But, we may say that the civil court cannot assume that it can freely enter the arena as if it is sitting in appeal over the action of the authorities.

25. Other reliefs claimed in Civil Suit No. 82 of 1993 are consequential to the relief of redrawing of the seniority list and since we have found that no relief of altering the seniority list can be given to the plaintiff therein, those reliefs also cannot be granted. Of course, the decree obtained by the plaintiff in Civil Suit No. 461 of 1991 which has become final would not be affected by whatever we have said in this judgment. But the decree granted in Civil Suit No. 82 of 1993 has to be reversed.

26. In the result, these appeals are allowed; the judgments and decrees granted by the courts below are set aside and all the three suits are dismissed with costs in the trial court. In the circumstances, the parties are directed to suffer their respective costs in the first appellate court, in the second appellate court and in this Court.

D.G.

Appeals allowed.