

# **SUPREME COURT OF INDIA**

State of Punjab

Vs.

Amrik Singh

C.A.No.5347 of 1996

(Sujata V.Manohar and D.P.Wadhwa JJ.)

27.11.1997

## **ORDER**

1. The respondent was employed as a clerk in the Government High School, Raipur, Rasulpur on 26-4-1976. He was subsequently posted as a clerk in the Government High School, Bharta Khurd, (Jalandhar). On 9-5-1979 he proceeded on leave. He did not rejoin on the due date. He submitted his applications for extension of leave from time to time. As the respondent did not join duty till 2-2-1980, his services were terminated by the appellants by an order dated 2-2-1980. In March 1980, the respondent wanted to resume duty when he was informed that his services were already terminated by an order dated 2-2-1980.

2. For six years thereafter the respondent did not take any action. On 8-11-1986 he filed a civil suit seeking a declaration that the order of 2-2-1980 terminating his services was illegal, invalid and without jurisdiction. One of the issues which was raised at the trial was whether the suit was barred by limitation. The trial court held that because the order of termination was null and void, no period of limitation was attracted and the suit was, therefore, not barred by limitation. This view has been upheld by the first appellate court. The second appeal has been dismissed in limine.

3. We are not examining any other issues which were raised during the trial of the suit. The cause of action in the present case arose on the date of the order of termination of 2-2-1980. We will assume that the respondent became aware of or was informed about the order of termination only after one month in March 1980, and the period of limitation began from March 1980. Both sides are agreed that the Article of Limitation applicable is the residuary Article 113 which prescribes a period of three years. The suit which is filed after six years is clearly barred by limitation. The appeal is, therefore, allowed and the suit of the respondent is dismissed. There will, however, be no order as to costs.