

SUPREME COURT OF INDIA

Before :- K. Venkataswami and A.P. Misra, JJ.

C.A. No. 9132 of 1996. D/d. 5.8.1998

Sukhmander Singh - Appellant

Versus

State of Punjab - Respondents

ORDER

A.P. Misra, J. - This appeal is preferred against the order dated December 1, 1995 of the High Court of Punjab and Haryana dismissing RSA No. 2475 of 1995 *in limine*.

2. The appellant was appointed as a Constable on August 27, 1981. It was found later that he got the appointment by producing a false Matriculation Certificate. The services of the appellant were terminated on July 29, 1983 on the ground that he secured the employment by producing a false Matriculation Certificate. The appellant was also prosecuted for securing employment by producing a false certificate. However, the learned Judicial Magistrate, Ist Class, Patiala, acquitted the appellant of the charge on March 3, 1990. Thereafter, on September 7, 1990, the appellant filed a suit for a declaration that the order of termination dated July 29, 1983 was illegal, null and void and for other consequential reliefs. That suit was dismissed by the trial Court on August 24, 1994, both on merits as well as on the ground that it was barred by limitation. The appeal preferred against the judgment was also dismissed on July 27, 1995 by the first appellate Court on the ground of limitation. The High Court declined to interfere with the judgment of the trial Court affirmed by the appellate Court. It is under these circumstances, this appeal by special leave has been filed.

3. Learned Senior Counsel appearing for the appellant submitted that the cause of action for filing a suit in this case arises only after the judgment of the learned Judicial Magistrate acquitting the appellant of the charge. Therefore, the suit was filed in time and the conclusion reached by the courts below to the contrary, cannot be sustained. He also invited our attention to Article 113 Part X of the Limitation Act, 1963 which says that any suit for which no period of limitation is provided elsewhere, the period will be three years when the right to sue accrues. Accepting the argument that Article 113 is applicable to the facts of this case, we are of the view that nothing prevented the appellant from filing a suit challenging the order of termination within three years from July 29, 1983 (the date of termination). That having not been done, that suit was rightly dismissed on the ground of limitation as well. We are unable to agree with the contention that the cause of action arose in this case on March 3, 1990 when the learned Judicial Magistrate acquitted the appellant. As pointed out earlier there was no bar statutorily or otherwise in the way of the appellant from filing a suit immediately after the termination order was passed.

4. In the result, the appeal is dismissed. There will be no order as to costs.

Appeal dismissed.