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(1994) 107 PLR 730

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 2191 of 1988

Brij Mohan Sehgal — APPELLANT

Vs

Punjab State — RESPONDENT

Date of Decision: Dec. 10, 1993

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Section 80

Citation: (1994) 107 PLR 730

Hon'ble Judges: Amrit Lal Bahri, J

Bench: Single Bench

Advocate: Gopal Mahajan, for the Appellant; S.S. Shergil, DAG, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.L. Bahri, J.
This Regular Second Appeal has been filed by Brij Mohan Sehgal, whose suit stands dismissed by the Courts below. The

plaintiff/appellant was working as a Conductor. In 1963, Sant Sarup, Chaman Lal and Gulzar Singh was promoted as Inspectors from the posts of

Conductors. The appellant was promoted as Inspector in 1965. In the suit filed by the appellant, he claimed that he was senior to the aforesaid

defendants/respondents (Nos. 2 to 4) in the cadre of Conductors. As a consequential relief, he claimed promotion with retrospective dates, with

other consequential benefits, claiming seniority over the respondents.

The suit was contested by the respondents, inter alia, on the ground that the same was barred by time. Following issues were framed :-

1. Whether the notice served on the defendant u/s 80 C.P.C. was not legal and valid? OPD

2. Whether the suit is within limitation? OPP

3. Whether the suit is not maintainable in its present form? OPD

4. Whether the plaintiff is entitled to the declaration prayed for? OPP

5. Relief.

Issue No. 1 was decided against the defendants holding that a valid notice u/s 80 of the CPC was issued. Issue No. 2 was decided against the

plaintiff. The suit was held to be barred by time. Issue No. 3 was not pressed and the same was decided against the defendants. Issue No. 4 was

decided against the plaintiff that he was not entitled to the declaration prayed for. Sub-Judge IInd Class, Jalandhar, thus, dismissed the suit on

October 29, 1985. Appeal filed by the plaintiff was dismissed by the Additional District Judge on June 8, 1988.

Learned counsel for the appellant with vehemence tried to argue that the limitation for the suit started when representation filed by the appellant

was dismissed on September 20, 1984, and the suit filed in 1985 was within time. There is no merit in this contention. The representation which

was dismissed in 1984, was infact filed in 1983, claiming seniority as well as promotional benefits. If the plaint as a whole is read, it would show

that the real grouse of the plaintiff-appellant was that respondent Nos. 2 to 4 were wrongly promoted in 1963 and that he should have been

promoted in 1963 and was wrongly promoted in 1965 as Inspector. The case of the defendants/respondents is that the plaintiff was rightly ignored

from promotion on account of an adverse entry of 1958-59 (Exhibit D-1), otherwise as far as the cadre of Conductors is concerned, the plaintiff,

of course, was senior. By filing a representation in 1983, to my mind, no fresh cause of action accrued to the plaintiff for filing the suit. In pith and

substance, the cause of action infact had arisen in 1963 when respondents Nos. 2 to 4 were promoted, ignoring the plaintiff/appellant. The suit filed

in 1985 by the plaintiff was obviously time barred. The appeal is, therefore, dismissed. There will be no order as to costs.