

Supreme Court of India

Vasant Ramchandara Deshpande vs State Of Maharashtra And Ors. on 16 December, 1996

Equivalent citations: JT 1998 (9) SC 497, (1997) 11 SCC 305

Bench: K Ramaswamy, G Nanavati

ORDER

1. Leave granted.

2. This appeal by special leave arises from the judgment and order made on 4-9-1996 of the Maharashtra Administrative Tribunal, Nagpur Bench in Transfer Application No. 532 of 1992 (Reg. Civil Suit No. 963 of 1980). The respondent-Government compulsorily retired the appellant from service, in exercise of its power, by order dated 29-12-1973 giving three months' notice to the appellant. It became effective from 28-10-1974. The suit was filed after issuance of the notice under Section 80, CPC, 1908 on 28-7-1980. Article 58 of the First Schedule to the Limitation Act, 1963 envisages limitation period for filing suit for any other declaration, i.e., three years from the date when the right to sue first accrues. It would, therefore, be seen that in a suit for declaration that the order of compulsory retirement was invalid under Article 311 or any other law, comes under Article 58 of the Schedule to the Limitation Act. Thus the right to sue accrued when the order of compulsory retirement was made on 29-12-1973 and it became effective from 28-10-1974. That being the date on which the right to seek such declaration accrued and became effective in respect of the appellant for the first time, the period of limitation would start from that date. Even after excluding the time required for issuance of the notice under Section 80, the suit is barred by limitation. The Tribunal, therefore, rightly dismissed the petition on the ground that it was time-barred. Under these circumstances, we do not find any error of law warranting interference.

3. The appeal is accordingly dismissed. No costs.