Prahlad Raut vs All India Institute Of Medical Sciences on 27 August, 2019

Equivalent citations: AIRONLINE 2019 SC 1027, (2019) 11 SCALE 566, (2019) 3 SERVLJ 140, (2019) 4 PAT LJR 265, (2019) 4 SCT 370, (2020) 1 SERVLR 431

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Bench: Indira Banerjee, R. Banumathi

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REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6640 OF 2019
(@ SLP(C) No. 30046 OF 2017)

Prahlad Raut ….Appellant

Versus

All India Institute of Medical Sciences ….Respondent

JUDGMENT

Indira Banerjee, J.

Leave granted.

2. The appeal is against a judgment and order dated 24.07.2017 of the Delhi High Court, allowing Writ Petition (Civil) No. 5977 of 2016 filed by the respondent, and setting aside the order dated 29.02.2016 passed by the Principal Bench of the Central Administrative Tribunal at New Delhi, whereby the learned Tribunal had allowed Original Application (O.A.) No.3381 of 2013 filed by the appellant challenging an order dated 6.1.2000 removing the appellant from the service of the respondent.

3. The appellant was appointed by the respondent as Bearer on 09.02.1972 and was promoted to the post of Steward on 15.10.1987. He was elected as an executive member of the Cooperative Society

known as AIIMS Cooperative, Thrift and Credit Society, hereinafter referred to as "Cooperative Society", run by the respondent, and became its treasurer.

4. On or about 5.3.1991, a First Information Report being FIR No.91 of 1991 under Sections 406/420/ 468/471/477A/120B of the Indian Penal Code (IPC), hereinafter referred to as the first FIR, was registered against the appellant at the Defence Colony Police Station at New Delhi, allegedly for causing loss to the tune of Rs.5 Lakhs to the Cooperative Society by forging the signatures of its members.

5. The appellant was arrested on 05.06.1991 and was in custody till 12.06.1991. By reason of his detention for more than 48 hours, the appellant was, by an order dated 7.8.1991, placed under deemed suspension in terms of Rule 10(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereinafter referred to as "CCS (CCA) Rules" and subsistence allowance was paid to him.

6. While the appellant was under suspension, another FIR No.868 of 1991 under Sections 356/379/411 of the IPC, hereinafter referred to as the second FIR, was registered against the appellant at the Connaught Place Police Station at New Delhi, allegedly for snatching a bag containing cash of Rs.290/□and two lottery tickets from one Jai Ram son of Chimma Ram. Criminal proceedings commenced in pursuance of the second FIR. By a judgment and order dated 15.9.1993, the appellant was convicted by the Metropolitan Magistrate Delhi under Section 379 of the Indian Penal Code.

7. Admittedly, the second FIR was registered against the appellant while he was under suspension. On behalf of the respondent, it has been contended that the respondent had no knowledge of the second FIR or of the judgment and order dated 15.09.1993, of conviction of the appellant under Section 379 of the IPC, for about 7 years.

8. On 16.09.1993, the respondent had been released on probation of good conduct for a period of one year, on condition of furnishing a personal bond and one surety of Rs.5,000/□ These orders were apparently concealed from the respondent.

9. It is the case of the respondent, that the respondent came to know about the second FIR and the conviction of the appellant pursuant thereto, after about 7 years, after which the respondent was removed from service by a memorandum dated 6.1.2000 issued under Rule 19(i) of the CCS (CCA) Rules. The said Memorandum is extracted hereinbelow:□"Whereas Shri Prahlad Raut, Steward (under suspension) from 5.6.1991 on charge of embezzling and mis□appropriation in view of F.I.R. No.91 dated 3.3.1991 under Section 406/420/468/471/477□A and 120□B IPC And whereas Shri Prahlad Raut was later on charge for an offence of theft of a bag in public place, he had been convicted by the Court of Shri D.K. Saini, Metropolitan Magistrate, New Delhi under section 356/379/411 IPC vide judgment dated 16.9.1993.

As whereas it is considered that the conduct of the said Shri Prahlad Raut which had held to his conviction is such as to render his further retention in the service of the Institute undesirable.

And whereas Shri Prahlad Raut was given an opportunity to offer his written explanation.

And whereas the said Shri Prahlad Raut has given a written explanation which has been duly considered by the undersigned.

Now, therefore, in exercise of the powers conferred by the Rule 19 (1) of the C.C.S. (C.C.A.) Rule 1965 the undersigned removes the said Shri Prahlad Raut from the service of the Institute from the date of the conviction i.e. 16.9.1993.

Shri Prahlad Raut therefore is directed to deposit the subsistence allowance as received by him from the A.I.I.M.S. beyond 16.9.1993."

10. By the said memorandum dated 6.01.2000, issued under Rule 19(i) of the CCS (CCA) Rules, the respondent removed the appellant from service with retrospective effect from 16.9.1993, being the date of his conviction, pursuant to the second FIR, and directed him to refund the subsistence allowance received by him from 16.9.1993 onwards.

11. Rule 19 of the CCS(CCA) Rules is set out hereinbelow for convenience:

> "19. Special procedure in certain cases Notwithstanding anything contained in Rule 14 to Rule 18☐
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> (i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or
>
> (ii) where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
>
> (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules.

The Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

> [Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be Imposed before any order is made in a case under Clause (i):
>
> Provided further that the Commission shall be consulted, where such consultation is necessary, [and the Government servant has been given an opportunity of representing the advice of the Commission,] before any orders are made in any case under this rule.]"

12. The memorandum dated 6.1.2000 indicates compliance of the requisites for imposition of penalty under Rule 19(i) of the CCS(CCA) Rules. It is a matter of record that the appellant was convicted of offence under Section 379 of the Indian Penal Code for committing theft at a public place. The said memorandum reveals that the conduct of the appellant of committing theft in a public place, while under suspension on the serious charge of embezzlement and misappropriation, for which he was convicted under Section 379 of the Indian Penal Code was duly considered. On such consideration the concerned authority found retention of the appellant in the service of the respondent to be undesirable.

13. The appellant has apparently been given an opportunity of hearing. The memorandum dated 6.1.2000 records that the appellant had submitted a written explanation which had duly been considered before removing the appellant from the service of the respondent, from the date of his conviction.

14. According to the appellant, aggrieved by the said decision, the appellant appealed to the President of the respondent, to which there was no response. The respondent claims that the appeal was rejected in the same year, that is, in 2000. However, no order of rejection is traceable.

15. Over a decade after the appellant was removed from service, he entered into a settlement with the respondent, in terms whereof he compensated the respondent for the loss caused by him to the Cooperative Society. As a consequence of the compromise, the first FIR, that is, FIR No. 91 of 1991 was quashed by the High Court of Delhi on 2.11.2012. Thereafter, the appellant made a representation demanding Pension, Gratuity and Provident Fund with interest from the respondent. This is not in dispute.

16. The appellant has also alleged that he made a request to the respondent for withdrawal and/or cancellation of the Memorandum dated 6.1.2000, to which there was no response.

17. On or about 24.7.2013, that is, over thirteen years after the issuance of the Memorandum dated 6.1.2000, removing the appellant from service of the respondent, with retrospective effect from the date of his conviction, the appellant filed Original Application No.3381 of 2013 before the learned Tribunal, challenging the Memorandum dated 6.1.2000.

18. Section 21 of the Administrative Tribunals Act, 1985, which prescribes the period of limitation for filing an application in an Administrative Tribunal provides:

> "21. LIMITATION.—(1) A Tribunal shall not admit an application,—
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> (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
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> (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired

thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub□section (1), where□

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub□section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub□section (1) or sub□section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub□section (1) or, as the case may be, the period of six months specified in sub□section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

19. The pleadings of the appellant, in his application before the Tribunal with regard to limitation, are extracted herein below :□"3 Limitation The application is within the period of limitation as prescribed in Section 21 of the A.T. Act, 1985. Moreover, the applicant challenges a per se illegal order of removal from service with retrospective effect as well as his pension/GPF is withheld and thus are continuing wrongs."

20. Along with O.A. No.3381 of 2013 the appellant had filed an application seeking condonation of delay and an affidavit stating that the application for condonation of delay had been filed in exercise of abundant caution and to comply with procedural requirements.

21. In the application for condonation of delay, it was contended that (i) the order of removal with retrospective effect being void ab initio, the law of limitation would not apply; (ii) Delhi High Court had quashed the first FIR by an order dated 2.11.2012 and this order gave rise to a fresh cause of action;

(iii) the respondent had filed an appeal dated 21.01.2013 to the Appellate Authority, seeking review of the order of removal, to which there had been no response; (iv) the appellant had continuing cause of action as pension/provident fund amount had illegally been withheld;

(v) the appellant being 67 years of age, had retired from service, and was in a state of penury.

22. By an order dated 29.2.2016, the learned Tribunal set aside the Memorandum dated 6.1.2000 and granted all the benefits to the appellant. The Learned Tribunal held:□"11. Having considered the matter, we are of the firm view that the OA was filed within the period of limitation. It is not a matter of dispute that the punishing authority has retrospectively removed the applicant from service with effect from 16.09.1993, that being the date of his conviction in a criminal case by means of impugned order dated 06.01.2000. Such orders are illegal, void ab initio and can be challenged at any time. The Hon'ble Apex Court in a celebrated judgment in the case of State of Madhya Pradesh Vs. Syed Qamarali 1967(I) SLR 228, which was subsequently followed in many decisions, has authoritatively ruled that the order of dismissal having been made in breach of mandatory provision of the rules, such order of dismissal had, therefore, no legal existence and it was not necessary for the respondents to have the order set aside by the court. The defence of limitation which was based only on contention that the order has to be set aside by a court before it became invalid must, therefore, be rejected.

12. Not only that, the applicant claimed that he has filed the appeal on 23.02.2000 (Annexure A□5 Colly) to the Appellate Authority which was received by the office of the President, AIIMS, on 25.02.2000. Subsequently, he moved a representation dated 21.01.2013 (Annexure A□6 Colly) claiming all the consequential benefits by ignoring the impugned removal order.

13. The contesting respondents have neither specifically denied nor produced any cogent record even to indicate that applicant has not filed any appeal (Annexure A□5 Colly)/representation (Annexure A□6 Colly) or the same were decided by the Appellate Authority. Moreover, the applicant has claimed all consequential benefits along with amount of pension and other emoluments along with interest, which to our mind, is recurring and continuing cause of action.

14. Thus, seen from any angle, it cannot possibly be said that the OA filed by the applicant is barred by limitation as contrary urged on behalf of respondents. Hence, it is held that the main OA filed by the applicant is within the prescribed period of limitation and the crux of law laid down in Syed Qamarali (supra) is fully applicable in the present case.

15. Once it is held that the main OA has been filed within the period of limitation, learned counsel for applicant then contended with some amount of vehemence that there is no provision of law/rules that the applicant can retrospectively be removed from his service with effect from 16.09.1993, the date of his conviction, that too, simply on the ground of his conviction in a criminal case by the impugned order dated 06.01.2000 by the competent authority."

23. Aggrieved by the order dated 29.2.2016 passed by the learned Tribunal, the respondent filed Writ Petition No. 5977 of 2016, which has been allowed by the High Court of Delhi by the judgment and order dated 24.7.2017 impugned in this appeal.

24. We have heard Ms. Meenakshi Arora, learned senior counsel appearing on behalf of the appellant and Mr. Dushyant Parashar, learned counsel appearing for the respondent and perused the documents on record.

25. Ms. Arora submitted that the learned Tribunal had rightly set aside the order of removal on the ground that the same could not have been passed with retrospective effect from 16.9.1993. Furthermore, a mere conviction in a criminal case could not, as held by the learned Tribunal, justify an order under Rule 19, which postulates satisfaction by the Disciplinary Authority, for reasons to be recorded in writing, that the conduct of the employee, which had led to his conviction in the criminal trial, was such that the punishment should be imposed.

26. Ms. Arora argued that the appellant had filed the Original Application before learned Tribunal within limitation, which is also supported by the non obstante clause in sub□Section (3) of Section 21 of the Administrative Tribunals Act, 1985.

27. Sub□Section (3) of Section 21 has no application in the facts and circumstances of this case, since the appellant contended and the learned Tribunal accepted that the Original Application had been filed within limitation. It was not the case of the appellant that there was sufficient cause for the delay of about thirteen years beyond the period of limitation in filing the Original Application. Nor has the Tribunal arrived at any finding that there was good and sufficient cause for the delay of about thirteen years, in filing the Application.

28. Sub□Section (3) of Section 21 is attracted when there is sufficient cause for the delay in filing an appeal beyond the period of limitation. The finding of the learned Tribunal that the Original Application had been filed within limitation, as argued by the appellant, is patently erroneous and has rightly not been accepted by the High Court. It is well settled that successive representations do not save limitation and certainly does not justify delay of about thirteen years in approaching the Tribunal. The judgment of the Division Bench of the Punjab and Haryana High Court in Sardar Singh v. Union of India1 was rendered in the special facts and circumstances of the case, where the claim of a soldier for payment of disability pension was being denied only on the ground that the disability was not attributable to, or aggravated by, military service.

29. In support of her argument that the learned Tribunal was right in entertaining and allowing the Original 1 1991 SCC Online P&H 1943 Application, Ms. Arora cited Union of India and Others v. Tarsem Singh2 where this Court held :□"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. ....."

30. The proposition of law laid down by this Court in Tarsem Singh (supra) is unexceptionable. It is well settled that where there is a continuing wrong in relation to a service related claim, relief may be granted notwithstanding delay, provided the granting of the relief does not unsettle matters settled and affect third parties. The judgment was, however, 2 (2008) 8 SCC 648 rendered in the context of discretionary relief in proceedings under Article 226 of the Constitution of India, for which there is no limitation prescribed. Where the cause of action is not a continuing one the High Courts refuse monetary claim on the ground of delay, specially arrears. In this context it would be pertinent to refer to the concluding part of Paragraph (7) and Paragraph (8) of the judgment of this Court in Tarsem Singh (supra) extracted hereinbelow:

> "7. .....Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.
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> 8. In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances."

31. Ms. Arora argued that the appellant had not been paid pension, gratuity and general provident fund even though the appellant had completed service of over 20 years from 1972 to 1993. The appellant had otherwise, actually completed 28 years of service. Ms. Arora also attacked the direction on the appellant, in the Memorandum dated 6.1.2000, to return the subsistence allowance with effect from 16.9.1993.

32. Removal under Rule 19(i) of the CCS (CCA) Rules, 1965 entails the consequence of forfeiture of retiral benefits such as pension. The order of 6.01.2000 necessarily had to be challenged before the learned Tribunal within the period of limitation or alternatively the appellant would have to show sufficient cause for the delay in filing the Original Application beyond the period prescribed by limitation. The question of

entitlement, if at all, of the appellant to gratuity and provident fund, notwithstanding his removal by the Memorandum dated 6.01.2000 was neither raised before nor considered by the learned Tribunal. Nor was the question considered by the High Court. The question cannot be raised at the stage of this appeal.

33. The question of retrospective discharge and removal cannot be raised after lapse of thirteen years. Whether the judgment of this Court in Union Bank of India and Others vs. C.G. Ajay Babu and Another 3 cited by Ms. Arora, at all has any application, cannot be examined at the stage of this appeal.

34. As recorded by the High Court, as early as on 5.03.1991, FIR No.91 (the first FIR) had been registered against the appellant who had been elected Executive Member of the Cooperative Society. That FIR, as observed above, was under

Sections 406/420/468/471/477A/120B of the IPC for causing, as Treasurer, pecuniary loss to the tune of Rs.5 lakhs to the Society, by forging signatures of its members.

3. (2018) 9 SCC 529

35. The appellant was arrested on 5.06.1991 and had remained in custody till 12.06.1991. By an order dated 7.08.1991 the appellant was placed under deemed suspension from the date of his arrest i.e., 5.06.1991 and paid subsistence allowance. The High Court has very rightly taken note of the fact that the first FIR had been quashed pursuant to a settlement between the parties in terms whereof the appellant paid an amount of Rs.2 lakhs and another amount of Rs.2,46,130/□by way of bankers' cheque, by way of compensation for the loss caused to the Cooperative Society.

36. The judgment and order under appeal records that the appeal filed by the appellant to the President, AIIMS was rejected in 2000. However, a copy of the rejection order is not available and was not brought on record.

37. Be that as it may, the order of dismissal dated 6.1.2000 under Rule 19(i)of CCS(CCA) Rules, 1985 was challenged on 2013 after almost 13 years. Even assuming that the appeal was never decided, the cause of action for filing an application before the Tribunal would have arisen on expiry of six months from the date of filing the appeal, in view of Section 20(2)(b) of the Administrative Tribunals Act, 1985 set out hereinbelow:□"20. Application not to be admitted unless other remedies exhausted:

(2) For the purposes of sub□section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances;□

(a) .....

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired." The application to the Tribunal would have to be filed within the period of limitation as prescribed in Section 21(1)(b) of the Administrative Tribunals Act, which would start running from the date of expiry of six months from the date of filing of appeal. The contention of the appellant that the quashing of the first FIR gave rise to a fresh cause of action is completely misconceived.

38. In S.S. Rathore vs. State of Madhya Pradesh 4, a Constitution Bench of this Court held:□"21. It is appropriate to notice the provision regarding limitation under Section 21 of the Administrative Tribunals Act. Sub□section (1) has prescribed a period of one year for making of the application and power of

4. (1989) 4 SCC 582 condonation of delay of a total period of six months has been vested under sub□ section (3). The civil court's jurisdiction has been taken away by the Act and, therefore, as far as government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.

22. It is proper that the position in such cases should be uniform. Therefore, in every such case only when the appeal or representation provided by law is disposed of, cause of action shall first accrue and where such order is not made, on the expiry of six months from the date when the appeal was filed or representation was made, the right to sue shall first accrue. Submission of just a memorial or representation to the head of the establishment shall not be taken into consideration in the matter of fixing limitation."

39. In our considered opinion, the High Court rightly declined to accept the finding of the Tribunal that the O.A. was within the period of limitation.

40. The learned Tribunal opined that the O.A. had been filed within limitation, relying on a judgment of this Court in State of Madhya Pradesh vs. Syed Qamarali5 and held that orders such as the order of removal of the appellant which were illegal or void ab initio could be challenged at any time. As such orders had no legal existence, it was not necessary for the respondent to have the order set aside by Court. The 5 (1967) 1 SLR 228 learned Tribunal has misconstrued the law laid down by this Court in Syed Qamarali (supra).

41. The High Court rightly found that, in Syed Qamarali (supra) the suit challenging the order of termination, which was held to be invalid, had been filed within the prescribed period of limitation of six years under Article 120 of the Limitation Act, 1908 which was the residuary article. In Syed Qamarali's case the appeal had been rejected on 9.04.1947 and the suit filed on 8.12.1952. The period of six years has been reduced to three years under Article 113 of the Limitation Act, 1963.

42. On the other hand, in the State of Punjab and Others vs. Gurdev Singh6 referred to and relied upon by the High Court, this Court held:□"8. But nonetheless the impugned dismissal order has at least a de facto operation unless and until it is declared to be void or nullity by a competent body or court. In Smith v. East Elloe Rural District Council [1956 AC 736, 769 : (1956) 1 All ER 855, 871] Lord Radcliffe observed: (All ER p. 871) "An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity on its forehead. Unless the necessary proceedings are taken at law to establish the cause of 6 (1991) 4 SCC 1 invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders."

9. Apropos to this principle, Prof. Wade states [See Wade:

> Administrative Law, 6th edn., p. 352] : "the principle must be equally true even where the 'brand' of invalidity" is plainly visible; for there also the order can effectively be resisted in law only by obtaining the decision of the court. Prof. Wade sums up these principles: [Ibid.] "The truth of the matter is that the court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he has waived his rights, or for some other legal reason. In any such case the 'void' order remains effective and is, in reality, valid. It follows that an order may be void for one purpose and valid for another; and that it may be void against one person but valid against another.

10. It will be clear from these principles, the party aggrieved by the invalidity of the order has to approach the court for relief of declaration that the order against him is inoperative and not binding upon him. He must approach the court within the prescribed period of limitation. If the statutory time limit expires the court cannot give the declaration sought for."

43. In this case the order of removal was passed on 6.01.2000. The respondent had filed an appeal on 23.02.2000 Even assuming, as contended by the appellant that the appeal was not disposed of, the limitation started running upon expiry of six months from 23.2.2000, that is, around 23.8.2000. The Original Application was patently barred by limitation, there being delay of 13 years in approaching the learned Tribunal. Such inordinate delay could not have been condoned.

44. The High Court rightly held that the law of limitation is founded on public policy. The object of limitation is to put a quietus on stale and dead disputes. A person ought not to be allowed to agitate his claim after a long delay. There can be no doubt that when retiral benefits are withheld without cause, there would be a continuing cause of action. However, when retirement benefits are withheld by way of disciplinary action, the order would necessarily have to be challenged within the period of limitation or alternatively there would have to be sufficient cause for the delay. Once there is cessation of employer□employee relationship by an order of termination, the cause of action would necessarily arise when the order of termination is passed. The forfeiture of pensionary benefits by reason of a punitive order of termination is not a continuing cause of action.

45. We are unable to accept Ms Arora's submission that this Court take a sympathetic view of the plight of the appellant considering that the first FIR was quashed and after the conviction pursuant to the second FIR the appellant was released on probation of good conduct after which there was no further complaint against him.

46. It is reiterated, at the cost of repetition that the first FIR was quashed pursuant to a settlement between the appellant and the respondent in terms whereof the appellant compensated the pecuniary loss caused by him to the Cooperative Society. The FIR was not quashed on the ground that the same did not disclose any offence or was otherwise frivolous, vexatious or harassive. While under suspension in contemplation of disciplinary proceedings for misconduct related to the first FIR, the appellant committed theft of a bag containing money at a public place for which he was convicted under Section 379 of the IPC. It cannot be said that absolute penury led him to commit the offence as argued by Ms. Arora since the appellant was receiving subsistence allowance while under suspension. Any sympathy for the appellant would, in our view, be completely misplaced.

47. The judgment and order of the High Court under appeal does not call for any interference. The appeal is, therefore, dismissed and the judgment and order of the High Court, under appeal is affirmed.

.....J. (R. BANUMATHI) .....J (INDIRA BANERJEE) AUGUST 27, 2019 NEW DELHI