2025 INSC 910

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2025
ARISING OUT OF SLP (C) NO(S). OF 2025
SLP (C) DIARY NO. 11923 OF 2024

SUBHA PRASAD NANDI MAJUMDAR ...APPELLANT(S)

VERSUS

THE STATE OF WEST BENGAL SERVICE & ORS. ...RESPONDENT(S)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. Delay condoned. Leave Granted.

2. The appellant challenges the Division Bench's decision, upholding the University and State's stance that a government Notification dated 24.02.2021 extending the retirement age from 60 to 65 years is inapplicable to him due to non-satisfaction of the 10-year continuous teaching condition in a university situated in West Bengal. Despite the Notification's reference to 'any university', the respondents argue that 'any' should be interpreted

in consonance with the definition clause in the parent Act, limiting 'university' to a university constituted by a State Act.

3. After careful consideration, we conclude that the Notification's intent was not to exclude employees with experience from universities outside the State of West Bengal. The text, the context, and the objective of the Notification reveal that, its purpose was solely to distinguish between *state-aided* and *private institutions*. Classifying employees based on past teaching experience from Universities within or outside West Bengal, particularly at the verge of retirement, after having served for decades lacks nexus and discernible object. We have thus allowed the appeals with costs.

3.1 When such decisions are subjected to strict scrutiny in judicial review, they unfortunately expose themselves as parochial, potentially undermining our resolve of fraternity. Executive decisions such as these seem minor or simple errors of perception but have far reaching consequences. Constitutional courts must be vigilant and identify such decisions, embedded in the nooks and crannies of public administration and set them aside, for they have the potentiality of triggering similar actions by other States and their Instrumentalities. The appellant asserted his right to

equality, which claim like that of liberty is easier to address in a court of law. However, the principle of fraternity never asserts itself. It is the duty of the constitutional court to recognise its erosion, even in the bylanes of public administration and to restore the essential 'We' to ensure the unity and integrity of the nation.

4. The short facts leading to the filing of the present appeals are as under. The appellant was initially appointed as a member of the teaching staff at Cachar College, Silchar, State of Assam on 23.01.1991. Under the Assam College Employees (Provincialisation) Act, 2005, the college was taken over as a government college. After serving as such for a continuous period of 16 years, he applied in response to an advertisement dated 18.06.2007 issued by the Burdwan University, State of West Bengal for one vacancy in the post of Secretary, Faculty Council for Post-Graduate Studies in Science. He was selected and after working for some time he was promoted to the post of Senior Secretary, Faculty Council for Post-Graduate Studies in Science on 26.01.2012.

5. Almost a decade thereafter and at a time when the appellant already rendered over fourteen years of service, the State of West Bengal, issued a Memorandum dated 24.02.2021 increasing the

age of retirement from 60 years to 65 years. The Memorandum provided that the benefit of increased age of retirement is extended only to those who had acquired a minimum of 10 years of continuous teaching experience in any State-aided university/college. The appellant made a representation to the Vice Chancellor of the university on 01.02.2023 claiming benefit of the Memorandum and sought fixation of his age of retirement to be on attaining 65 years.

6. The University replied on 28.06.2003, informing that the appellant will retire on 31.08.2023 on attaining the age of 60 years, as he had no teaching experience in a '*university or college aided by the State of West Bengal*'. Aggrieved, the appellant filed a Writ Petition no. WPA 16596 of 2023 before the Calcutta High Court.

7. By his order dated 28.08.2023, the Single Judge allowed the writ petition and held that the appellant was squarely covered by the Memorandum, and that he will only now retire on attaining the age of 65 years. It was held that the word "any" used before the phrase "State-aided university" was wide enough to include teaching experience in an aided university outside of West Bengal. It was held that if the stand of the University and the State Government was accepted, it will amount to adding the phrase "in

West Bengal" after the phrase "in any State aided University or College" and supplying words to the Memorandum would be going beyond the bounds of judicial review. Impugning the order of the Single Judge, the State Government as well as the University filed separate writ appeals.

8. ***Impugned Order:*** By way of the impugned common order, the Division Bench allowed the appeals and set-aside the judgment of the Single Judge. The Division Bench was of the view that the Memorandum has to be read in light of the parent statute, namely, the West Bengal Universities (Control of Expenditure) Act, 1976. The Bench observed that the said Act was amended on 17.03.2017, and expressions '*Government-aided college*', '*State-aided University*' and more importantly '*State Government*' were defined to include only the Government of West Bengal. Taken collectively, the Division Bench says, a Court can come to the conclusion that the requirement of minimum 10 years of continuous teaching experience must be from universities or colleges aided by the *State of West Bengal*. Differing from the conclusions reached by the Single Judge, the Division Bench held that extending benefit of the Memorandum to experience acquired through universities or colleges *outside* of West Bengal will amount

to supplying words to the Memorandum. It was reasoned that the word 'any' cannot be expanded, and the Memorandum must be understood in light of the statute under which it was issued, and the statutory provisions must be interpreted on the basis of the definition clauses introduced by the 2017 amendment to the 1976 Act.

9. The appellant challenges the judgment and order passed by the Division Bench.

10. We heard Mr. Gaurav Agarwal, learned senior counsel on behalf of the appellant and Mr. Jaideep Gupta and Mr. Krishnan Venugopal, learned senior counsels for the State of West Bengal and University of Burdwan, respectively.

11. Before drawing our conclusions on the submission at the bar, it is necessary to refer to the relevant provisions of the Act, Rules and the Notification. Section 4 of the 1976 Act, as it stood prior to its amendment provides as follows:

> *"Section 4.* ***Retirement of Teachers****: Every teacher of a university or any college affiliated to such university who is in receipt of pay in the revised scale shall retire from service on attaining the age of sixty years."*

12. The said provision was amended in the year 2017 through the West Bengal Universities (Control of Expenditure) Amendment Act, 2017. After the amendment the said provision is as under:

> "*Section 4.* ***Retirement of Teachers****: Every Full-time regular teacher, Principal and such other regular employees, who are in receipt of the State Government's notified scale of pay and holding a substantive post in any State-aided University or Government-aided college shall retire from service on attaining such age as may be determined and notified in the official Gazette by the State Government from time to time.*"

13. Along with the changes brought about in Section 4, the 1976 amendment also defined the expressions '*Government Aided College*', '*State Government*' and '*State Aided University*'. The definitions introduced through Section 2 are as follows:

> "*Section 2*: *In this Act, unless the context otherwise requires—*
> […]
> *(a) "Government-aided college" means a college receiving periodical pay packet from the State Government on account of salary and allowances of the teachers and other academic staff including the non-teaching employees of the college;*
> […]
> *(cc) "State Government" means the Government of West Bengal in the Higher Education, Science and Technology and Biotechnology Department; ';*
> […]
> *(e) "State-aided University" means a University constituted and incorporated by a State Act and receiving regular grants from the State Government.'*
> […]"

14. Returning to the dispute under consideration, one fact which is glaring is that the appellant was selected to the post of Secretary, Faculty Council for Post-Graduate Studies in Science at the respondent university in the year 2007 on the basis of the qualifications that he possessed. The qualification inter alia

included the service that he has rendered in Cachar College, Silchar in Assam. The said qualification as well as experience obtained by the appellant from the State of Assam did not operate against him at any point of time in his service from 2007 onwards. In fact, the appellant was promoted to the post of Senior Secretary, Faculty Council for Post-Graduate Studies in Science. For the first time when the appellant sought the benefit of Notification dated 24.02.2021, the respondents took the stand that the appellant did not have the qualification of having continuously served for 10 years in the State Aided University or College. Before considering the rival submission on the Notification and the inconsistent interpretations adopted by the Single and the Division Benches of the High Court, it is necessary to reproduce the Notification dated 24.02.2021:

> *"Date: 24.02.2021*
>
> *NOTIFICATION*
>
> *Consequent upon enhancement of the retirement age of the State-aided University teachers and Govt./Govt. aided College teachers up to 65 years, the matter regarding enhancement of the retirement age of the State-aided University Registrars, Controller of Examinations, Inspector of Colleges and Dean of Student's Welfare, Deputy Registrar, Deputy Controller of Examinations, Deputy Inspector of Colleges and Secretary, Council of PG & UG Studies and College Council of the State aided Universities with teaching background/experience in any State-aided University or College, was under consideration of the State Govt. from sometime past.*
>
> *After careful consideration of the matter, the Governor is pleased to enhance the retirement age of the Registrar, Controller of Examinations, Inspector of Colleges and Dean of*

Student's Welfare, Deputy Registrar, Deputy Controller of Examinations, Deputy Inspector of Colleges and Secretary, Council of PG & UG Studies and College Council of the State aided Universities having continuous teaching background/experience of minimum 10 years in any State-aided University or College, up to Sixty five (65) years with effect from the date of issuance of this notification, for smooth running of the academic and administrative activities, in terms of Section 4 of the West Bengal Universities (Control of Expenditure) Act, 1976 as amended from time to time."

15. The university has taken the stand that the Notification requires to be interpreted by taking into account the statute that governs the field. Referring to Section 4 of the Act, Mr. Gupta has submitted that the Notification must be understood in terms of Section 4, as amended in 1976 where the relevant terms are defined under Section 2 (a), (cc) and (e). Taking the same stand as that of the Division Bench of the High Court, it is submitted that requirement of continuous teaching background/experience of minimum 10 years must be only from West Bengal State-aided University or College.

16. We do not agree. The intendment of Section 4, even as it stood before its amendment in 2017 was to provide that employees of a university or any college affiliated to such university shall retire from service on attaining the age of 60 years, subject to the condition that they are in *receipt of pay in the revised scales*. The important part of this provision is that the teacher must be

receiving scales of pay. In other words, the emphasis is on regular employment. The same principle is reiterated with further conditions even when Section 4 was amended in 2017. As per the amended provision, a teacher covered thereunder must be, i) a regular employee, ii) receiving notified scales of pay, and must be iii) holding a substantive post. The purpose of using the phrase "*in any State-aided University or Government-aided College*" is only to denote that the employer, being a University or College must be an aided institution as against institutions which do not receive aid. Once an employee satisfies these conditions, the statutory provision enables the State Government to notify the date of retirement.

17. There is no doubt about the fact that the appellant was a regular employee, having joined the university way back in 2007 and continued in service uninterruptedly till 2021, by which time he had also gained promotion to the post of Sr. Secretary.

18. The Notification dated 24.02.2021 simply incorporates the expression "*in any State-aided University or Government-aided College*" as in Section 4, conveying the context of employment in an aided institution. The purpose of the Notification is not to exclude those who had acquired the 10 years of teaching

experience from universities or colleges outside West Bengal. The Notification itself provides that enhanced age of retirement was granted to teachers of universities and colleges and now a policy decision is taken to extend the same benefit to non-teaching staff such as Registrars and Deputy Registrars, Controllers and Deputy Controllers of Examinations, Inspectors and Deputy Inspectors of colleges apart from Dean of Student's Welfare and Secretary Council of PG and UG Studies. While granting such benefits, the Notification prescribes a condition of teaching experience of 10 years. While prescribing the said condition of 10 years, the Notification employed the same expression, "*in any State-aided University or Government-aided College*", to indicate that the employment must be in a university or a college receiving State-aid. Without appreciating the text of the Notification and also the context in which the expression used, the State and the University have wrongly insisted that the appellant must have had the teaching experience of 10 years from a university or a college *within the State of West Bengal*.

19. In any event, excluding those who had teaching experience from a university or a college outside the State of West Bengal for the purpose of granting the benefit of extended date of retirement

does not stand to reason. By virtue of the Notification, the benefit of extended date of retirement given to teachers is now extended to non-teaching employees, for whom teaching experience may in fact not be relevant. Even assuming that such experience has some bearing on the performance of their duties during the extendable period of service, there is no purpose or object in confining such experience only through teaching in university or college in West Bengal.

20. Extension of the retirement date, dependent on past experience of teaching in a university or a college located in West Bengal alone has no object to subserve and as such classification of employers into those who have acquired teaching experience in West Bengal and those who acquired such experience outside West Bengal is artificial, discriminatory and arbitrary. The stand taken by the state and the university is illegal and violative of the equality norm as enunciated by this Court.

21. To insist on past teaching experience of 10 years within the State of West Bengal for extension of service, particularly when the employee has already worked for fourteen years is arbitrary and illegal.

22. Under similar circumstances in *J.S. Rukmani v. Govt. of T.N.*,[1] this Court has held:

> "[…] *If that be so, then it is difficult to see how the widow of a government servant who served the former State of Madras in the same manner and who retired before the reorganisation of the States should not be entitled to family pension under the notification dated May 26, 1979 merely because the place where her husband was serving at the date of superannuation subsequently came to form part of the territories of a State other than the State of Tamil Nadu as a result of the reorganisation of the States. The object of the notification dated May 26, 1979 does not warrant any such distinction to be made between the widows of one class of government servants and the widows of another class merely on the basis of the place where the government servant last served at the time of superannuation, although in both cases the government servant served the same State, namely, the former State of Madras and superannuated before the reorganisation of the States...*"
>
> (emphasis supplied)

23. Equally relevant are the observations of this Court in *Harshendra Choubisa v. State of Rajasthan.*[2] The facts therein were that the State held an examination for the recruitment to the post of Gram Sewak-cum-Paden Sachiv. The Notification of recruitment awarded extra marks to applicants coming from a particular district (weightage on the basis of place of residence). This Court struck down the condition down and held as under:

> "*10. The two considerations pleaded by the State do not at all appeal to us as they are based on wrong factual assumptions or sweeping generalizations which have a tendency to introduce artificial classification without in any way advancing*

[1] 1984 Supp SCC 650.
[2] (2002) 6 SCC 393.

the avowed objective. We have already rejected such contentions in the judgment just now delivered in relation to the appointment of primary school teachers. As it is contended that Gram Sewaks-cum-Secretaries of Panchayats are concerned with local self-governance and therefore different considerations would apply vis-à-vis their appointments, we have thought it fit to refer to and deal with this contention separately in these appeals, though, we are relieved of the need for detailed discussion in view of our judgment in the teachers' batch of appeals.

[…]

12. The second ground urged by the State is equally irrelevant and untenable. Most of the reasons given by us in the judgment just delivered in teachers' cases will hold good to reject this plea. No factual details nor material has been placed before us to substantiate that the spoken language and dialect varies from district to district. It will not be reasonable to assume that an educated person belonging to a contiguous district or districts will not be able to effectively communicate with the people of the district in which he is appointed or that he would be unfamiliar with the living conditions and culture of that district. He cannot be regarded as an alien in a district other than his native district. If any classification has to be done in this regard, it should be based on a scientific study but not on some broad generalization. If any particular region or area has some peculiar socio-cultural or linguistic features warranting a differential treatment for the purpose of deploying personnel therein, that could only be done after conducting a survey and identifying such regions or districts. That is the minimum which needs to be done. There is no factual nor rational basis to treat each district as a separate unit for the purpose of offering public employment. Above all, it is wrong to assume that the candidates belonging to rural areas will be better suited to serve those areas than the candidates living in nearby towns. The criterion of merit cannot be allowed to be diluted by taking resort to such artificial differentiation and irrelevant assumptions. On the material placed before us, we have no hesitation in holding that the addition of bonus marks to the applicants belonging to the same district and the rural areas of that district would amount to discrimination which falls foul of Articles 14 and 16."

24. Returning to the facts of the present appeals, there is evidently no material to show how an employee who has already served the university for fourteen years will be better qualified for

extension of service only if his or her past experience of teaching is *only in State of West Bengal*. The minimum that the State or the University needs to prove is to place on record the material that would demonstrate that non-teaching posts, with respect to which the state has decided to extend the facility of extended date of retirement, somehow require experience gained through teaching in West Bengal and this would also require demonstrating the distinctive and unique skill obtained through teaching in the State of West Bengal alone. Further, it is also necessary to demonstrate the nexus that the *experience of teaching* in the *State of West Bengal* has to the *extended period of service*. There is absolutely no material to this effect. We see nothing more than an artificial classification. It is a classic case of a suspect classification intended to sub-serve only parochial interests and nothing more. To insist on such a requirement for extension of date of retirement is totally unjustified.

25. Mr. Krishnan Venugopal appearing on behalf of the university has submitted that the appellant has not challenged the validity of the amendments made to Section 2 introducing sub-clauses (a), (cc) and (e) defining the expressions used in Section 4. He submitted that it is not sufficient to challenge just the

Notification dated 28.06.2023 retiring the appellant on completion of 60 years and that he should have challenged the Notification dated 24.02.2021 as well as the amended Act 2017 substituting Section 4 and introducing Sections 2(a), (cc) and (e). For this purpose, he relied on the decision of this Court in *Onkarlal Nandlal v. State of Rajasthan*,[3] holding that a subordinate legislation must bear the same meaning as that of the parent Act.

26. We are of the opinion that it is not necessary for the appellant to challenge the amended provisions as our conclusions are based on the plain and simple interpretation of the Notification dated 24.02.2021 as well as Section 4 of the Act. Further, it is well-established that statutory definitions must be interpreted in their context. In fact, Section 2 itself provides that *"In the Act, unless the context otherwise requires…."*. In *Vanguard Fire and General Insurance Co. Ltd. v. Fraser and Ross*[4], this Court held as follows:

> "*6.* […] *It is well settled that all statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying words similar to the words used in the present case, namely, unless there is anything repugnant in the*

[3] (1985) 4 SCC 404.
[4] (1960) SCC OnLine SC 49.

subject or context. Therefore in finding out the meaning of the word "insurer" in various sections of the Act, the meaning to be ordinarily given to it is that given in the definition clause. But this is not inflexible and there may be sections in the Act where the meaning may have to be departed from on account of the subject or context in which the word has been used and that will be giving effect to the opening sentence in the definition section, namely, unless there is anything repugnant in the subject or context. In view of this qualification, the court has not only to look at the words but also to look at the context, the collocation and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words under the circumstances."

27. We have already examined and concluded that the text, the context, the purpose as well as the object of providing, "*continuous teaching experience of 10 years in any university*" as a condition in the Notification dated 24.02.2021 is not at all to exclude such experience from universities or colleges outside the State of West Bengal. Thus, the submission based on definition clauses is rejected as misplaced.

28. For the reasons stated above, we allow the appeals and set aside the impugned judgment and order dated 13.12.2023 passed by the Division Bench of the Calcutta High Court in MAT 1762 of 2023, CAN 1 of 2023, CAN 2 of 2023 and MAT 1705 of 2023. The Notification dated 28.06.2023 denying the benefit of the Notification dated 24.02.2021 is set-aside by declaring that the

appellant will be entitled to the benefit of Notification dated 24.02.2021.

29. The appellant will be entitled to costs quantified at Rs. 50,000/-.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[MANOJ MISRA]

NEW DELHI;
JULY 30, 2025