

CASE DETAILS

P.C. MODI

v.

THE JAWAHARLAL NEHRU VISHWA VIDYALAYA AND
ANOTHER

(Civil Appeal No.4267 of 2011)

DECEMBER 13, 2023

[HIMA KOHLI AND RAJESH BINDAL, JJ.]

HEADNOTES

Issues for consideration: (i) Whether a PTI/Sports Officer falls within the expression “teacher”.

(ii) Whether the appellant (working as a sports officer/PTI) would have been entitled to continue in the service of the respondent No.1-University as a PTI till he completed the age of 62 years, at par with other teachers of the Vishwavidyalaya.

Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963 – Jawaharlal Nehru Krishi Vishwavidyalaya Statute, 1964 – Jawaharlal Nehru Krishi Vishwa Vidyalaya (General Condition of Service Regulations, 1929) – The appellant was working as a sports officer/PTI in the College of Agriculture under the respondent No.1-University – Appellant’s case that since sports officer/PTI working in the respondent No.1-University fall under the definition of “teacher”, their age of superannuation should also be treated as 62 years – Propriety:

Held: The Single Judge of the High Court had allowed the writ petition filed by the appellant – It was held that the appellant would fall within the definition of a “teacher” in terms of Statute 32 and he was liable to be retired on attaining the age of 62 years – However, the Division Bench of the High Court upheld the order of retirement passed by the respondent No. 1-University in respect of the appellant, retiring him on attaining the age of 60 years – In the instant case, a comparison of the fact situation and the provisions of the relevant Act and Regulations with

those analysed in the case of P.S. Ramamohana Rao, would show clear parity – Just as under the A.P. Act where the definition of a “teacher” contained in Section 2(n) was an expansive one and extended not only to those persons who impart instructions, conduct and carry on research work for extension programme, but also those who were declared to be a teacher within the purview of the definition under the Statute framed by the State Government, same is the position under the J.N.K.V.V. Act, the Statute and relevant Regulations – Therefore, it is declared that the appellant, who was discharging the duties of a PTI/Sports Officer, would fall within the definition of a “teacher” and would have been entitled to be continued in service till completion of 62 years of age – As the appellant was prematurely retired by the respondents at the age of 60 years, it is held that he shall be entitled to all consequential and monetary benefits including, arrear of salary, etc., had he continued in service upto to the age of 62 years – Judgment passed by the Single Judge of the High Court restored. [Paras 11, 12]

LIST OF CITATIONS AND OTHER REFERENCES

P.S. Ramamohana Rao v. A.P. Agricultural University and Another
(1997) 8 SCC 350 : [1997] 3 Suppl. SCR 201 – relied on.

State of Madhya Pradesh and Others v. Ramesh Chandra Bajpai (2009)
13 SCC 635 : [2009] 12 SCR 23 – distinguished.

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4267 of 2011.

From the Judgment and Order dated 14.12.2009 of the High Court of M.P. at indore in WA No.126 of 2008.

Appearances:

L. C. Patne, Mrs. Rekha Pandey, Raghav Pandey, Ms. Gauri Pandey, Harshit Shishodiya, Advs. for the Appellant.

Niraj Sharma, Ms. Mahima Sharma, Ms. Tanya Raizada, G. A. V. Ravi Kumar, Sumit Kumar Sharma, Raghav Gupta, Advs. for the Respondents.

JUDGMENT / ORDER OF THE SUPREME COURT

JUDGMENT

HIMA KOHLI, J.

1. The present appeal has been filed by the appellant being aggrieved by the judgement and order dated 14th December, 2009, passed by the Division Bench of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore in a Writ Appeal¹ filed by the respondents herein allowing their appeal and setting aside the order dated 26th April, 2005, passed by the learned Single Judge² wherein it was held that the appellant, who was working as a sports officer/physical training instructor³ in the respondent No. 1 – Jawaharlal Nehru Krishi Vishwa Vidyalaya⁴, falls under the definition of a “teacher” and is entitled to retire at the age of 62 years, at par with teachers serving in the respondent no. 1 – University.

2. We may first elucidate the facts relevant for deciding the case at hand.

2.1 The respondent No. 1 – University was established under the Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963⁵, enacted by the Madhya Pradesh Legislature. In exercise of the powers conferred under the Act, the Jawaharlal Nehru Krishi Vishwavidyalaya Statute, 1964⁶ was framed which came into force from 1st December, 1964.

2.2 The appellant was working as a sports officer/PTI in the College of Agriculture under the respondent No. 1 – University. *Vide* order dated 27th June, 2000, issued by the respondent No. 1 – University, the appellant was informed that on attaining the age of 60 years, he would stand retired from the service of the respondent No. 1 – University with effect from 30th June, 2000. The appellant claimed that he was entitled to be continued in service till 30th June, 2002, which period was being illegally curtailed by the respondent No. 1 – University. The said plea was based on the appellant’s

1 In Writ Appeal No. 126 of 2008

2 In Writ Petition No. 1322 of 2022

3 For short ‘PTI’

4 For short ‘the University’

5 For short ‘the J.N.K.V.V. Act’

6 For short ‘the Statute’

stand that he falls in the purview of a “teacher” in terms of Statute 32 of the J.N.K.V.V Act as also in terms of Regulation 4 of the Jawaharlal Nehru Krishi Vishwa Vidyalaya (General Condition of Service Regulations, 1929)⁷ and he would be due to superannuate only upon attaining the age of 62 years on 30th June, 2002. Further, the appellant relied on the letters dated 27th July, 1998, 22nd September, 1998 and 06th November, 1998 issued by the Ministry of Human Resource Development (Department of Education) that had increased the age of retirement of physical education personnel to 62 years. The appellant submitted a representation to the respondents stating that by virtue of the aforesaid decision, the age of teachers was raised by the State Government from 60 years to 62 years with effect from the year 1998 and the said decision also covered the respondent No. 1 – University, thereby entitling teachers serving in the University to superannuate at the age of 62 years instead of 60 years. He urged that since sports officer/PTI working in the respondent No. 1 – University fall under the definition of “teacher”, their age of superannuation should also be treated as 62 years.

2.3 Aggrieved by the order of retirement issued by the respondent No. 1 - University, on the eve of his attaining the age of 60 years and on not receiving a positive response, the appellant approached the High Court and filed a writ petition². The said petition was opposed by the respondent No. 1 – University stating that the age of superannuation of employees working in the University is governed by Statute 11(4) and sub-clause (d) of Statute 11(4) specifically provides that the non-teaching service personnel shall be superannuated on attaining the age of 60 years. The appellant being a non-teaching service personnel, was therefore to retire on attaining the age of 60 years. It was also stated that *vide* order dated 17th May, 2000, the Education Department of the State Government had decided that the retirement age of sports officers/PTIs shall be 60 years. Further, the Agriculture Department of the State Government had issued a Memorandum dated 12th July, 2000, clarifying *inter alia* that as per the Statute of the University, the post of sports officers wasn’t treated as a teaching post and therefore, their retirement age could not be raised from 60 years to 62 years. Reference was additionally made to the minutes of the 160th meeting conducted by the Board of

⁷ For short ‘the Regulation’

Management of the respondent No. 1 - University on 10th June, 2000 wherein it was decided that those appointed to the post of sports officer/PTI working in the University being non-teaching service personnel, shall superannuate on attaining the age of 60 years.

2.4 *Vide* judgement dated 26th April, 2005, relying on the decision of this Court in *P.S. Ramamohana Rao v. A.P. Agricultural University and Another*⁸ and the decision of coordinate benches of the High Court, the learned Single Judge allowed the writ petition² filed by the appellant. It was held that the appellant would fall within the definition of a “teacher” in terms of Statute 32 and he was liable to be retired on attaining the age of 62 years. As a result, the order dated 27th June, 2000, issued by the respondent No. 1 – University retiring the appellant from service on 30th June, 2000, was quashed and set aside and since he had already been retired in the year 2002, the respondents were directed to pay emoluments and other benefits including retiral benefits to the appellant as if he had continued in service up to the age of 62 years.

2.5 Aggrieved by the aforesaid decision, the respondents filed a writ appeal¹ which was originally registered as a Letters Patent Appeal and subsequently re-registered as a Writ Appeal¹ under Section 2 of the Uchha Nyalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005. By the impugned judgement, the Division Bench allowed the writ appeal filed by the respondents and observed that Statute 32 recognizes only professors, associate professors, assistant professors as teachers and looking at the job profile of the appellant, he does not fall under the definition of a teacher. For holding so, the Division Bench cited the decision of a three Judges Bench of this Court in *State of Madhya Pradesh and Others v. Ramesh Chandra Bajpai*⁹ and opined that the decision of a two Judges Bench of this Court in *P.S. Ramamohana Rao's case* (supra) relied on by the appellant, having been duly noted in *Ramesh Chandra Bajpai's case* (supra) that was decided subsequently, the proposition laid down by the two Judges Bench should not be automatically extended to other cases where employees are governed by a different set of rules.

8 (1997) 8 SCC 350

9 (2009) 13 SCC 635

2.6 Observing further that the definition of the word ‘teacher’ in Section 2(n) of the Andhra Pradesh Act, 1963¹⁰ which was the subject matter of consideration in P.S. Ramamohana Rao’s case (supra) was an expansive one and could not apply to the employees of the respondent No. 1 – University who are governed by the Statute under the Act and the Regulations made thereunder, the Division Bench held that order passed by the learned Single Judge was unsustainable. Resultantly, the order of retirement passed by the respondent No. 1 – University in respect of the appellant, retiring him on attaining the age of 60 years, was upheld. Dissatisfied with the aforesaid decision, the appellant has preferred the present appeal.

3. For deciding as to whether a PTI/Sports Officer falls within the expression “teacher” and if so, whether the appellant herein would have been entitled to continue in the service of the respondent No.1 – University as a PTI till he completed the age of 62 years, at par with other teachers of the Vishwavidyalaya, we may first examine the relevant provisions of the Act, the Statute and the Regulations.

3.1 Following is the definition of ‘Teacher’ of the Vishwa Vidyalaya, as prescribed in Section 2(x) of the Act:

“2. In this Act, unless the context otherwise requires,-

.....

(x) “Teacher of the Vishwa Vidyalaya” means a person appointed or recognised by the Vishwa Vidyalaya for the purpose of imparting instructions and/or conducting and guiding research and/or extension programmes and includes a person who may be declared by the Statutes to be teacher”

As can be gleaned from the above definition, the word “teacher” has not been stated precisely. The word “teacher” has simply been described to mean a person appointed or recognized by the “Vishwa Vidyalaya” who would be required to impart instructions, conduct and guide research, conduct other extension programmes and extends to a person who may be declared as a teacher under the relevant Statute.

10 For short ‘the A.P. Act’

3.2 Relevant extract of Statute 11 (4) is as under:

“11. Conditions of service etc. of other officers :-

- (1) xxxx
- (2) xxxx
- (3) xxxx
- (4) Every employee shall retire from the service of the Vishwa Vidyalaya in the afternoon of the last day of the month in which he attains the age of superannuating, as prescribed below :-
 - (a) “Officers” as defined under Section 12 of the Act and Statute 3 (except the Chancellor and the Vice – Chancellor) shall be superannuated on attaining the age of 60(sixty) years, provided that those appointed as Officers by promotion or otherwise but have been engaged in teaching for not less than 20 years and holds a lien on a post in the Vishwa Vidyalaya shall be superannuated on attaining the age of 62 (sixty two) years.
 - (b) **The “Teachers” as defined under Section 2(x) of the Act and Statute 32 shall be superannuated on attaining the age of 62 (sixty two) years.**
 - (c) “Class-IV employees” as defined in Regulation No.4 of the JNKVV Service (General Conditions of Service) Regulations, 1969 shall be superannuated on attaining the age of 62 (sixty two) years.
 - (d) “Non-teaching service personnel” of Class-I, II & III categories as defined in Regulation No.4 of the JNKVV Service (General Conditions of Service) Regulations, 1969 shall be superannuated on attaining the age of 60 (Sixty two) years, except the teacher of primary School working in the Class III cadre of Vishwa Vidyalaya who shall be superannuated on

attaining the age of 62 (sixty two) years on or after 31.10.2002.

Provided that on attaining the age of superannuation, any employee whose date of birth is the first date of the month, shall retire from the services in the afternoon of the last date of the preceding month.

Provided further that:

- (i) All Vishwa Vidyalaya employees may, in the public interest or in the Vishwa Vidyalaya interest be retired at any time after they attain the age of 50 years or 20 years of qualifying service, on three months notice without assigning any reason or on payment of three months pay and allowances in lieu of such a notice;
- (ii) The cases of such persons as have been re-employed in the Vishwa Vidyalaya Service, after retirement from Government Service, shall be governed by the terms and conditions of their re-employment in this Vishwa Vidyalaya service; and,”

[Emphasis added]

3.3 Statute 32 defines the word “Teacher” in the following terms :

“Vishwa Vidyalaya Teachers:

- (1) Teachers of the Vishwa Vidyalaya shall be either-
 - (a) Servants of the Vishwa Vidyalaya paid by the Vishwa Vidyalaya for imparting instructions and/or conducting and guiding research and/or extension and/or programmes as-
 - (i) Professor,
 - (ii) Associate Professor,
 - (iii) Assistant Professor.

Explanation :

Any “Teacher” subsequently appointed as an “Officer” as defined under Section 12 of the Act and Statute 3 (except the Chancellor and the Vice Chancellor) by promotion or otherwise and has been engaged in teaching for not less than twenty years and holds a lien on a post in the V.V. shall also be a teacher, under this Statute.

- (b) Person appointed by the Board as Honorary Teachers in any of the aforementioned categories on such terms and conditions as the Board may prescribed by Regulations.
- (2) A Teacher shall be eligible to impart instructions and/or conduct of guide research and/or extension programme only up to such standard for which he is recognized as such in accordance with the Regulations made by the Board in this behalf.
- (3) A Teacher shall perform such functions and discharge such duties as may be prescribed by Regulations by the Academic Council.
- (4) The word ‘Teacher/Teacher’ wherever it occurs includes person engaged in Research and Extension activities.”

As can be seen from Statute 32 quoted above, teachers are described as those discharging their duties by imparting instructions and/or conducting and guiding research and/or extension programmes in different capacities as Professor/Associate Professor/Assistant Professor. Statute 11(4) (b) specifies the age of retirement of “teachers” as 62 years whereas the age of retirement of those described as non-teaching service personnel is 60 years.

3.4 Vishwa Vidyalaya Services have been classified under Regulation 4 of the Jawaharlal Nehru Krishi Vishwa Vidyalaya Services (General Conditions of Service) Regulations, 1969⁷ in the following manner:

“(i) . Officer of the Vishwa Vidyalaya U/s 12 of the Jawaharlal Nehru Krishi Vishwa Vidyalaya Act, 1963 and Statute 3 except the Chancellor and the Vice-Chancellor.

(ii) Teaching staff of the Vishwa Vidyalaya as defined under Statute 32 of the Jawaharlal Nehru Krishi Vishwa Vidyalaya Statutes, 1964.

(iii) Non-Teaching services personnel of the JNKVV-

(a) JNKVV Service CI-I

(b) JNKVV Service CI-II

(c) JNKVV Service CI-III

(i) Ministerial

(ii) Non-Ministerial

(d) JNKVV Service CI-IV ”

4. It is evident on examining the relevant provisions of the Act, Statute and the Regulations that they do not specifically indicate the duties required to be discharged by a PTI/Sports Officer and therefore, one has to fall back on the definition of Sports Teacher as contained in Section 2(x) of the J.N.K.V.V Act read with Statute 32(1) of the Statute. To examine as to whether the appellant would come within the definition of a “teacher” and thereby be entitled to continue in service till completion of 60 years, it would be necessary to see the nature of job performed by a PTI/Sports Officer.

5. In the writ petition filed by the appellant, he has made a specific averment in para 6(4) that “*a Sports Officer/PTI in a college is very much a “Teacher” because he imparts instructions to the students of the college in Physical Education*”. Pertinently, in the counter affidavit filed by the respondent No.1 – University, it has not been disputed that the appellant was working as a PTI/Sports Officer. Nor is there any specific denial to the averments made by the appellant, in the corresponding para of the counter affidavit regarding the duties discharged by the appellant, namely, imparting instructions to students of the College in Physical Education. The learned Single Judge has taken note of this position in the order dated 26th April, 2005 and made the following observations :

“The petitioner in ground No.4 of the petition has clearly stated Sports Officer is a Teacher because he imparts instructions to the students of the College in physical education and in reply to above ground the respondents has only submitted that the petitioner has no ground to get any relief from this Hon’ble Court. There is no specific denial

on behalf of the respondent to this effect. It is clear from the duties of Sports Officer that he gives instructions and teaches the students with regard to sports and he is related with the sports activities of the University which is a part and partial of the education.”

6. Going further, the learned Single Judge sought to draw strength from the decision of a Division Bench of this Court in *P.S. Ramamohana Rao* (*supra*) where a similar issue relating to the entitlement of the appellant therein to continue in the service of the A.P. Agricultural University as a Director of Physical Education till he completed the age of 58 years or 60 years came up for consideration. After examining the relevant provisions of the A.P. Act and the Andhra Pradesh Agricultural University (Conditions of Service) Regulations, 1965, the appeal filed by the appellant therein was allowed and it was held that the duties being discharged by him as a Physical Director brought him within the definition of a “teacher” and therefore, he was entitled to continue in service till he completed 60 years of age. The factors that weighed with the Court for holding so, have been expressed as below :

“9. From the aforesaid affidavit, it is clear that a Physical Director has multifarious duties. He not only arranges games and sports for the students every evening and looks after the procurement of sports material and the maintenance of the grounds but also arranges inter-class and inter-college tournaments and accompanies the students’ team when they go for the inter-university tournaments. For that purpose it is one of his important duties to guide them about the rules of the various games and sports. It is well known that different games and sports have different rules and practices and unless the students are guided about the said rules and practices they will not be able to play the games and participate in the sports in a proper manner. Further, in our view, it is inherent in the duties of a Physical Director that he imparts to the students various skills and techniques of these games and sports. There are a large number of indoor and outdoor games in which the students have to be trained. Therefore, he has to teach them several skills and techniques of these games apart from the rules applicable to these games.

19. It may be that the Physical Director gives his guidance or teaching to the students only in the evenings after the regular classes are over. It may also be that the University has not prescribed in writing any theoretical and practical classes for the students so far as physical education is concerned. But as pointed by us earlier, among various duties of the Physical Director, expressly or otherwise, are included the duty to teach the skills of various games as well as their rules and practices. The said duties bring him clearly within the main part of the definition as a “teacher”. We, therefore, do not accept the contention raised in the additional counter-affidavit of the University.”

7. It is noteworthy that the definition of the word “teacher” as contained in Section 2(n) of the A.P. Act is *para materia* with Section 2(x) of the J.N.K.V.V. Act. Both the provisions are extracted below for comparison:

Section 2 (n) of the A.P. Act:

“2. (n) ‘teacher’ includes a professor, reader, lecturer or other person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension programmes, and any person declared by the statutes to be a teacher;”

Section 2(x) of the J.N.K.V.V. Act :

“2 (x) Teacher of the Vishwa Vidyalaya” means a person appointed or recognised by the Vishwa Vidyalaya for the purpose of imparting instructions and /or conducting and guiding research and/or extension programmes and includes a person who may be declared by the Statutes to be teacher”

8. Thus, it can be seen that the definition “teacher” is inclusive in nature and not just confined to a Professor, Associate Professor or Assistant Professor, as defined in Statute 32. When Section 2(n) of the A.P. Act is read in conjunction with Statute 32, the word “teacher” encompasses one who is enjoined to impart instructions and/or conduct and guide research and/or extension programmes. The definition being inclusive in nature would have to be read expansively and when read in the context of PTI/Sports Officer, it cannot be denied that the appellant while discharging his duties was required to impart instructions relating to the rules and practices adopted for various categories of sports. Besides that, the appellant was also required to impart different skill sets and playing techniques depending on the nature of the sport, for training the students. Merely because the appellant as a PTI/

Sports Officer was not expected to conduct classes within the four walls of the College, as in the case of a Professor/Associate Professor/Assistant Professor, would not by itself make him ineligible for being treated as a teacher for all practical purposes inasmuch as most sports require training in open spaces/fields/courts etc.

9. The reliance placed by the Division Bench of the High Court on the decision of a three-Judges Bench in the case of State of Madhya Pradesh and Others v. Ramesh Chandra Bajpai^{II}, wherein though reference was made to the decision of P.S. Ramamohana Rao (supra), it was held that the proposition laid down in the said case should not have been automatically extended to other cases and the whole issue would depend on the nature of Rules under which an employee is governed, is in our opinion, misplaced. Laying emphasis on the aforesaid observations made in the last para of the Ramesh Chandra Bajpai's case (supra), the impugned judgment records that the definition of a "teacher" under the M.P. Government Service Rules cannot be imported into Statute 32 to give it a liberal interpretation so as to include a Sports Officer as a teacher.

10. The relevant provisions of the Act and the Statute governing the instant case have been extracted above and juxtaposed with the provisions of the A.P. Act and having gone through the relevant Regulations, there is no manner of doubt that the definition of the word "teacher" under the J.N.K.V.V. Act corresponds with the definition of "teacher" under the A.P. Act, which was the subject matter of consideration in P.S. Ramamohana Rao (supra). We are therefore of the opinion that the Division Bench of the High Court had no reason to rely on the observations made in the case of Ramesh Chandra Bajpai (supra) where the fact situation was entirely different. In the said case, this Court was required to decide as to whether the private respondent therein who was working as a Physical Training Instructor in the Government Ayurvedic College, Ujjain, Madhya Pradesh could claim parity of pay with teachers who had been granted UGC scale of pay. The view expressed was that the doctrine of "equal pay for equal work" can only be invoked when employees are similarly situated and there is wholesale identity between holders of the two posts. This Court did not find any substance in the plea taken by the respondent therein that

the decision in the case of P.S. Ramamohana Rao (supra) would have any application to the facts of the said case and observed that the said decision had been misapplied and misconstrued by the High Court to give benefit to the private respondent.

11. In the case at hand, a comparison of the fact situation and the provisions of the relevant Act and Regulations with those analysed in the case of P.S. Ramamohana Rao (supra), would show clear parity. Just as under the A.P. Act where the definition of a “teacher” contained in Section 2(n) was an expansive one and extended not only to those persons who impart instructions, conduct and carry on research work for extension programme, but also those who were declared to be a teacher within the purview of the definition under the Statute framed by the State Government, same is the position under the J.N.K.V.V. Act, the Statute and relevant Regulations. We are therefore of the opinion that the Division Bench of the High Court fell into an error by placing reliance on the decision in Ramesh Chandra Bajpai (supra), where the issue involved was at variance.

12. In view of the aforesaid discussion, it is deemed appropriate to quash and set aside the impugned order dated 14th December, 2009 and restore the judgment dated 26th April, 2005 passed by the learned Single Judge. It is declared that the appellant, who was discharging the duties of a PTI/Sports Officer, would fall within the definition of a “teacher” and would have been entitled to be continued in service till completion of 62 years of age. As the appellant was prematurely retired by the respondents at the age of 60 years, it is held that he shall be entitled to all consequential and monetary benefits including, arrear of salary, etc., had he continued in service upto to the age of 62 years. The retiral benefits of the appellant shall also be computed on a presumption that his age of retirement was 62 years. The entire amount due and payable to the appellant shall be computed by the respondents and paid over to him along with a copy of the said computation within a period of six weeks from today.

13. The appeal is allowed on the aforesaid terms. However, in the facts and circumstances of the present case, there shall be no orders as to costs.