

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**CHANDIGARH BENCH**

O.A.No.060/392/2020

(Reserved on 29.09.2020)



Chandigarh, this the 27<sup>th</sup> day of October, 2020

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

**HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

.....

1. Dr. Jogender Pal Singh son of Sh. Mohinder Pratap Singh, aged about 57 years presently posted as Assistant Professor, Group-A, in Graphics- Print Making of Government College of Arts, Sector 10-C, Chandigarh 160011.
2. Sh. Bheem Sain Malhotra son of Sh. Shori Lal, aged about 58 years presently posted as Associate Professor in Fine Arts of Chandigarh College of Architecture, Sector 12, Chandigarh 160012.
3. Shri K.S. Sahi son of Shri Joginder Singh aged about 57 years presently posted as Director in Physical Education of Government College of Arts, Sector 10-C, Chandigarh 160011.
4. Dr. Mrs. Alka Jain daughter of Shri S.K. Gupta, aged about 57 years presently posted as Associate Professor in Painting of Government College of Arts, Sector 10-C, Chandigarh 160011.
5. Dr. Rajesh Kumar Sharma son of Shri Phool Singh Sharma aged about 56 years presently posted as Associate Professor in



Sculpture of Government College of Arts, Sector 10-C,  
Chandigarh 160011.

**...Applicants**

(BY ADVOCATE: MR. Rajiv Atma Ram, Sr. Advocate with Mr. Arjun Partap Atma Ram)

Versus

1. Union of India through Secretary, Ministry of Human Resources Development, Department of Higher Education, Government of India, New Delhi 110001.
2. Union of India through Secretary, Ministry of Home Affairs, Government of India, New Delhi 110001.
3. All India Council for Technical Education (AICTE) through its Chairman, Nelson Mandela Marg, Vasant Kunj, New Delhi 110070.
4. The Chandigarh Administration (Union Territory) through its Advisor to the Administrator, U.T. Secretariat, Sector 9, Chandigarh 160009.
5. Chandigarh Administration (U.T.) through the Secretary, Department of Technical Education, U.T. Secretariat, Sector 9, Chandigarh 160009.
6. The Principal, Government College of Arts, Sector 10, Chandigarh 160011.
7. The Principal, Government College of Architecture, Sector 12, Chandigarh 160012.

(BY ADVOCATE: Mr. Sanjay Goyal for respondents no.1&2

Mr. Ravi Sharma for respondent no. 3

Mr. K.K. Thakur for respondent no. 4 to 7)

... **Respondents**



**ORDER**

**AJANTA DAYALAN, AM**

The present Original Application (O.A.) has been filed by Dr. Jogender Pal Singh and four others seeking issue of appropriate order restraining the respondents from retiring/superannuating the applicants till 65 years of age and to consider them for extension in service till the age of 70 years. They have also sought orders for quashing the notification dated 13.1.1992 (Annexure A-3) or for directing the respondents that this notification is not applicable to them after promulgation of AICTE Regulations, 2010 and 2019 (Annexures A-10 & A-11), the University Grant Commission (UGC) Regulations, 2010, and Council of Architecture Regulations, 2017. The applicants have also sought quashing of letter dated 20.12.2019 (Annexure A-19 colly) and letter dated 12.2.2020 (Annexure A-20 colly) as well as retirement orders of applicant no.2 Bhim Sain Malhotra (Annexure A-2).

2. The basic facts relevant to the case are largely undisputed and are given here and in the following paragraphs. The applicants are/were working as Teachers/Assistant Professors in the Government College of Arts, Sector 10, Chandigarh and



Chandigarh College of Architecture, Sector 12, Chandigarh. Applicant No. 2 Bheem Sain Malhotra has (allegedly wrongly) been retired from service w.e.f. 31.3.2020 and has been granted extension in service till 31.3.2021. Applicant Dr. Jogender Pal Singh was due to retire on 31.8.2020. The remaining three applicants Sh. K.S. Sahi, Dr. Mrs. Alka Jain and Dr. Rajesh Kumar Sharma are due to retire in February 2021, March 2021 and February 2022 respectively, in case the age of retirement is taken as 58 years as is presently being taken by the respondents.

3. Vide notification dated 13.1.1992 (Annexure A-3), the Government of India issued notification called 'Conditions of Service of Union Territory of Chandigarh Employees Rules, 1992'. Para 2 of the said Rules is as under:-

"Conditions of Service of persons appointed to the Central Civil Services and posts under the administrative control of Administrator:-

The conditions of service of persons appointed to the Central Civil Services and posts in Groups A,B,C and D under the administrative control of the Union Territory of Chandigarh shall, subject to any other provision made by the President in this behalf, be the same as the conditions of service of persons appointed to the corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders as are for the time being applicable to the latter category of persons.

Provided that in the case of persons appointed to the services and posts under the administrative control of Administrator, Chandigarh, so long as they are drawing pay on the rates admissible to the corresponding categories of employees of the Government of Punjab, it shall be competent for the Administrator to revise their scales of pay from time to time so as to bring them at par with the scales of pay which may be sanctioned by the Government of



Punjab from time to time to the corresponding categories of employees."

Thus, as per this notification, the conditions of service of the applicants were to be the same as conditions of service of persons appointed to the corresponding posts in Punjab Civil Services and the applicants were to be governed by the same Rules and Orders as were applicable to the latter category of persons.

4. The counsel for the applicants stated that despite this notification, the conditions of service were governed as per the guidelines issued by All India Council for Technical Education (AICTE). Pay of the applicants was fixed as per the revision of pay scale made by the Government of India from time to time and not Punjab Pay Scales. Vide communication dated 23.3.2007, (Annexure A-4), the age of superannuation of persons holding teaching posts in any of the Centrally funded higher and technical education institutions under Ministry of Human Resource Development was enhanced from 62 years to 65 years. Even re-employment upto 70 years of age was made permissible under certain conditions. Then, on 12.10.2009 (Annexure A-7), these instructions were extended to the teachers in higher and technical educational institutions which were under UT Administrations of Andaman and Nicobar islands and Daman and Diu which were funded by Central Government. On 7.10.2009, Government of India, Ministry of Human Resources Development issued detailed instructions/guidelines



regarding partial funding to those State Governments who wish to adopt revised pay-scales at par with UGC scales of pay for teachers in degree level engineering colleges and other degree level technical institutions including architecture, town planning, pharmacy and arts and crafts institutions etc (Annexure A-6). The Chandigarh Administration vide orders dated 24.12.2009 and 11.1.2010 (Annexures A-8 & A-9) adopted letters dated 31.12.2008 and 7.10.2009 (Annexures A-13 and A-6). However, while doing so, the age of superannuation was kept at 58 years, which according to the applicants is illegal. The 31<sup>st</sup> December 2008 orders are of Government of India detailing the scheme of revision of pay of teachers and equivalent cadres in universities and colleges following revision of pay scales of Central Government employees on recommendations of 6<sup>th</sup> Central Pay Commission. The Letter dated 7.10.2009 is for affording partial financial assistance to State Governments who wish to adopt and implement revised pay at par with UGC scale of pay, for the teachers in degree level technical institutions in the States.

5. Para 2 of the letter dated 24.12.2009 issued by Chandigarh Administration states as follows:-

“ 2. In pursuance of instructions contained in the Department of Education (Technical Section-II), Ministry of Human Resources Development, Government of India’s letter No. 37-10/95-TS.II dated 2.9.1999, approval of the Finance Department is hereby conveyed for the adoption of Letter No. 23-1/2008 dated 7.10.2009 and no. 1032/2006-U.II/U.I(i) dated 31.12.2008 of the Department of Higher Education, Ministry of Human Resource Development, Government of India, New Delhi for



implementing of scheme relating to the revision of pay scales of the teaching faculty working in the Technical Education Colleges/Institutions of UT Chandigarh on Central/AICTE pattern as per the recommendations of Director Technical Education, U.T. Chandigarh subject to the following modifications:-

- i. The retirement age of teaching faculty working in these Technical Education Colleges/Institutions of U.T. Chandigarh shall be the same as that of U.T. employees i.e. 58 years of service.
- ii. That the benefit for Revision of pay scales to the teaching faculty of these Technical Education Colleges/Institutions of U.T. Chandigarh shall be applicable in cash from the regular salary payable from 1.1.2010 and the payment for the arrears on account of revision of pay scales from 1.1.2006 to 31.12.2009 shall also be made in cash in such instalments as the administration may decide subject to the availability of budget in due course of time.
- iii. That the other allowances on the basis of Revised Basic Pay plus Grade Pay, Study Leave, Research Promotion Grant, Family Pension, Additional Quantum of Pension to Senior Pensioners, Gratuity and Encashment of Leave, Ex-gratia compensation, Provident Fund, Consultancy Assignments etc. shall be regulated as per the rates/rules applicable for U.T. Employees of the Chandigarh Administration from time without reference to the rate of such allowances mentioned in the Government of India's Letter dated 31.12.2008.
- iv) The Technical Education Branch (U.T. Secretariat) shall thereafter, forward a detailed list of the different posts of Teaching Faculty available with the Technical Education Colleges/Institutions of UT Chandigarh showing their Revised Pay scales against their existing pay scales for record and reference by this Administration and the financial implications involved into it for the implementation of the Revision of pay Scales vide GOI letter dated 31.12.2008 and 7.10.2009 ibid. "

6. The counsel for the applicants stated that Article 246 of the Constitution of India determines the legislative powers of the Union and the States. Subjects covered under List I of Seventh Schedule of the Constitution are under exclusive



legislative jurisdiction of the Union. Entry 66 of List I states as follows:

“Entry 66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

7. In terms of this entry, Union Government has promulgated and notified AICTE Act, 1987 (AICTE Act). As per Section 2 (g) of the Act, ‘Technical Education’ inter-alia includes areas of architecture and applied arts and crafts as well. Section 10 of this Act while laying down duties of the Council includes one of the duties to be laying down norms and standards. The relevant portion of this Section reads as follows:

“10. Functions of the Council:

(1) It shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purposes of performing its functions under this Act, the Council may –

xxxxx

(i) Lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations.

xxxxx”

Besides this, Section 23 of this Act also empowers the Council to make Regulations to carry out the purposes of the Act.

8. Under this Section, AICTE had notified the AICTE (Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions(Degree) Regulations, 2010 (Annexure A-10).



Relevant part of these Regulations relating to age of superannuation reads as under:-

**" Age of Superannuation:**

- (i) In order to meet the situation arising out of shortage of teachers in Technical Institutions and the consequent vacant positions therein, the age of superannuation for teachers in Technical Institutions has been enhanced to sixty five years, vide the Department of Higher Education letter No. F. No. 1-19/2006-U. II dated 23.3.2007, for those involved in class room teaching in order to attract eligible persons to the teaching career and to retain teachers in service for a longer period.
- (ii) Subject to availability of vacant positions and fitness, teachers shall also be reemployed on contract appointment beyond the age of sixty five years up to the age of seventy years. Reemployment beyond the age of superannuation shall, however, be done selectively, for a limited period of 3 years in the first instance and then for another further period of 2 years purely on the basis of merit, experience, area of specialization and peer group review and only against available vacant positions without affecting selection or promotion prospects of eligible teachers."

Thus, as per these Regulations, the age of superannuation for teachers in Applied Arts and Architecture in Technical Institutions is 65 years and they can be reemployed up to the age of 70 years, subject to availability of vacant posts and fitness.

9. The AICTE promulgated the fresh regulations in 2019 vide notification dated 1.3.2019 (Annexure A-11). Here, the relevant provisions of these Regulations are as follows:-

**"1.4 Effective date of application of Service Conditions**

- (a) All other service conditions including Qualifications, Experience, Recruitment, Promotions



publications, training and course requirements etc. shall come into force with effect from the date of this Gazette Notification.

Xxxxxxx"

#### "2.12 Age of Superannuation

The age of superannuation of all faculty members and Principals/Directors of institutions shall be 65 years. An extension of 5 years (till the attainment of 70 years of age) may be given to those faculty members who are physically fit, have written technical books, published papers and have average 360 feedback of more than 8 out of 10 indicating them being active during last 3 preceding years of service."

Thus, under these Regulations also, age of superannuation is kept at 65 years with re-employment upto 70 years of age on selective basis.

10. The UGC is also empowered under Section 26 of the UGC Act to promulgate Regulations. They have accordingly notified their Regulations of 2010. These Regulations govern the revised pay scale and other conditions of service including age of superannuation in Central Universities and other institutions maintained and funded by the UGC. The relevant Regulation reads as under:

" 2.1.0 The revised scales of pay and other service conditions including age of superannuation in central universities and other institutions maintained and/or funded by the University Grants Commission (UGC), shall be strictly in accordance with the decision of the Central Government, Ministry of Human Resource Development (Department of Education), as contained in Appendix-I.

2.3.1 The revised scales of pay and age of superannuation as provided in clause 2.1.0 above, may also be extended to Universities, colleges and other higher educational institutions coming under the purview of the State Legislature and maintained by



the State Governments, subject to the implementation of the scheme as a composite one in adherence to the terms and conditions laid down in the MHRD notifications provided as Appendix I and in the MHRD letter No. F.1-7/2010-U II dated 11 May, 2010 with all conditions specified by the UGC in these Regulations and other Guidelines.

2.3.2. Subject to the availability of vacant positions and fitness, teachers such as Assistant Professor, Associate Professor and Professor only, may be re-employed on contract appointment beyond the age of superannuation, as applicable to the concerned University, college and Institution, upto the age of seventy years.

Provided further that all such re-employment shall be strictly in accordance with the guidelines prescribed by the UGC, from time to time.”

Here also, as per Appendix I, age of superannuation for teachers in Central Educational Institutions has already been enhanced to 65 years vide Government of India letter dated 23.3.2007. Also, Central Universities have been authorised by the Government of India to enhance the age of superannuation of Vice Chancellors of Central Universities from 65 years to 70 years subject to amendments in respective statutes and with the approval of the competent authority.

11. Section 45 of the Council of Architecture Act empowers their Council to make Regulations. The Council has accordingly made Regulations of 2017 which provide age of superannuation as 65 years. Re-employment after superannuation is also permissible against sanctioned vacancies and faculty may continue to serve upto 70 years of age but shall not hold administrative position.



12. The learned counsel for the applicants submitted that in view of all the above Regulations providing age of 65 years for retirement for the faculty members of Technical Institution, the applicants submitted representations (Annexure A-14). Despite this, applicant no. 2 Sh. Bheem Sain Malhotra was retired after attaining the age of 58 years. It is further stated that Union Territory of Chandigarh Administration had sought clarification regarding upgradation of post of Librarian from Government of India and Government of India, inter alia, opined vide letter dated 9.7.2018 (Annexure A-15) that notification dated 13.1.1992 was a stop gap arrangement and all Union Territories except Chandigarh were in fact following the AICTE norms. They also stated that all UTs need to follow AICTE norms for service conditions and pay-scales for their technical institutions. The U.T. Chandigarh Administration, Personnel Department vide note dated 12.12.2018 (Annexure A-16) opined that competent authority to make amendment in notification of 13.1.1992 was Ministry of Home Affairs and so clarification may also be sought from them. Accordingly, U.T. Chandigarh Administration sought clarification from Union of India vide letter dated 25.1.2019 (Annexure A-17) with regard to the applicability of AICTE Regulations to Union Territory Chandigarh in view of 1992 notification. Union of India in their response dated 29.4.2019 (Annexure A-18 colly) directed that service conditions and pay-scales laid down by AICTE are to be followed by U.T. Chandigarh. Despite this, Union Territory has taken a contrary



decision vide their letter dated 20.12.2019 (Annexure A-19 colly).

13. The applicants have also referred to order dated 12.2.2020 (Annexure A-20 colly) from U.T. Administration to respondent colleges whereby U.T. Chandigarh has held that conditions of service of U.T. employees are on Punjab pattern and same is not a stop gap arrangements. This has been challenged in the OA.

14. The learned counsel for the applicants have argued that the applicants are faculty in Colleges of Arts and Architecture of Chandigarh. These institutions are technical education institutions as defined under AICTE Act of 1987. The functions of the Council as laid down in Section 10 of this Act include 'lay down norms and standards for courses, curricula, physical and institutional facilities, staff pattern, staff qualifications, quality instructions, assessment and examination'. The Council under powers under Section 23 of the Act has promulgated Regulations of 2010 and 2019. Both these Regulations clearly provide age of superannuation to be 65 years of age with re-employment upto 70 years subject to availability of vacant position and selectively on the basis of merit etc. Even the UGC under its Regulations of 2010 has provided age of superannuation as 65 years. Re-employment has also been permitted selectively up to 70 years based on fitness and against available vacant positions. Union Government has also insisted on all U.Ts. following AICTE service conditions and pay-



scales. Despite this, Chandigarh Administration is taking the age of superannuation to be 58 years in terms of Punjab Civil Services Rules in view of notification of 1992 whereby the conditions of service of applicants were to be the same as conditions of persons appointed to corresponding posts for Punjab Civil Services. The counsel for the applicants argued that this view of the U.T. Chandigarh Administration is illegal and arbitrary and is liable to be quashed.

15. The respondents have strongly opposed the contentions of the applicants' counsel. They have stated that the applicants are challenging the legality and validity of notification dated 13.1.1992 and also policy decisions which is not permissible. They have also stated that notification dated 31.12.2008 (Annexure A-13) issued by Government of India which the applicants are seeking to be enforced for the employees working with Chandigarh Administration, in fact, relates to Central educational institutes, Centrally funded institutions and Central Universities. The same cannot to be made applicable qua applicants who are working under Chandigarh Administration. They have stated that post Punjab Re-organisation Act and subsequent notification dated 13.1.1992, the rules framed by Punjab Government are *ipso facto* applicable to corresponding posts of Chandigarh Administration and once they have their own set of rules which govern the relevant field (including age of retirement) then the notification issued by Government of India will not be applicable without its adoption by the Punjab State Government. They have further stated that in the State of



Punjab, date of superannuation of college teachers was 58 years in terms of Rule 3.26 of Punjab Civil Services Rule, Vol. 1, Part 1. This was subsequently amended and extended by giving benefit of two years of extension in service i.e. upto the age of 60 years. This extension was also allowed in favour of the employees working in Chandigarh Administration. Since the Punjab Government has not taken any decision to increase the age of superannuation for their employees working in colleges by enhancing the age to 65 years in line with the notification dated 31.12.2008, the same cannot be applicable qua employees working in Chandigarh Administration.

16. Further, the respondents have stated that Government Colleges of U.T. Chandigarh are affiliated to the Punjab University, Chandigarh. But these colleges neither fall within the definition of "Central Educational Institution" nor within the definition of "Centrally Funded Institution". Punjab University Chandigarh to which these colleges are affiliated, has also not been declared a Central University, a Central Educational Institution or a Centrally Funded Institution. The Government of India letter dated 23.3.2007 to the UGC which speaks of Central Funded Institutions of Higher and Technical Education coming under the purview of the Union Ministry of Human Resource Development envisages and applies only to autonomous institutions funded by the Government of India such as IIMs, IITs and IISs and not to Institutions such as Government College in U.T. Chandigarh under the direct and complete administrative control of Government of UT. Unlike Government



colleges, the Central Funding of such institutions like IIMs, IITs, etc. is provided by way of grant-in-aid which is in addition to the income generated by them from their own resources. Moreover, unlike the employees of Government colleges, employees of such 'Centrally Funded' institutions are ordinarily and generally not Government employees but are employees of the institution itself and are governed by separate institutional Rules, Regulations, MOUs and contracts of service. The age of retirement in Government Colleges in U.T., Chandigarh has never been 62 years and the question of enhancing the said age to 65 years is completely and manifestly misconceived. Age of retirement for Government Colleges U.T. has always been 58 years.

17. It is further stated that Clause 8 (f) of the Government of India's letter dated 31.12.2008 to the UGC (Annexure A-3) captioned 'Age of Superannuation' is limited ex-facie to Central Educational Institutions and Central Universities. As a matter of fact, the very opening or introductory paragraph of this letter shows that the said annexure is limited to teachers in Central Universities. This limited applicability of Annexure A-1 is made clear in Clause 8 (p) and sub-clauses (i) to (v) thereof captioned 'Applicability of the Scheme'. A perusal of these, especially sub-clause (v) which is further broken up to sub paras (a) to (g), makes it clear that the applicability of extension of the scheme of revision of pay scales to Universities, Colleges or Institutions other than Central Universities is entirely optional and discretionary.



18. The respondents have further stated that a similar case in O.A. No. 060/498/2015- K.L. Sodhi vs U.T. Chandigarh and ors. claiming higher retirement age was dismissed by this Tribunal on 23.11.2016 holding that unless policy decision is taken in this connection, no benefit can be granted (Annexure R-1).

19. In views of above, the respondents have stated that the O.A. is devoid of merits and no relief can be granted to the applicants. It is also stated that the issue raised in this O.A. has already been decided by this Tribunal in the case of K.L. Sodhi (supra) vide order dated 23.11.2016.

20. We have heard the counsel for the opposing sides and have also gone through the pleadings available on record as well as various judgments and written statements made by the respective counsel.

21. The main issue to be decided in this case is as to whether age of superannuation of the applicants who are faculty in the Government College of Arts and College of Architecture at Chandigarh is to be 58 years in terms of 1992 notifications or age is to be 65 years as per AICTE Regulations as well as UGC Regulations.

22. We observe that the 1992 notification is in fact Rules laying down conditions of service of U.T. employees including the applicants. These are therefore on a higher footing than the regulations which are framed by individual institutions in accordance with rules framed by the Government. In case of



any contradiction between rules and regulations, it is invariably the rules that will have precedence and will have overriding effect.

23. Further, we observe that 1992 Rules are very clear. As per these rules, conditions of service of persons appointed to the Civil Services Posts as well as posts in Group A, B, C & D under administrative control of U.T. Chandigarh are to be same as conditions of service of persons appointed to corresponding posts in Punjab Civil Services. They are also to be governed by same rules and orders as are for the time being applicable to the latter category of persons. That the applicants are under administrative control of Administrator U.T. Chandigarh is not disputed. Thus, this notification of 1992 is applicable to the applicants.

24. We further observe that notification of 1992 is only subject to 'any other provisions made by the President in this behalf'. As such, applicability of this notification can change only as and when any other provision in this behalf is made by the President. Accordingly, the Punjab Civil Services rules and orders in corresponding posts will continue to apply to the applicants till alternative provisions are made by the President.

25. We further observe from the explanatory memorandum to the 1992 Rules that it was by the employees of Chandigarh Administration themselves that a demand was made for grant of Punjab Pay Scales. This demand was considered and it was decided to grant Punjab pay scales to



these employees. Hence, it was based on U.T. Chandigarh employees demand that this notification was issued and a special dispensation was made for them way back in 1992. Obviously, at that point of time the Punjab Pay scales must have been better than the Central Government or UGC pay scales. The U.T. Chandigarh employees have been benefiting from this notification right from 1992 onwards. It is only now when the employees are reaching their superannuation and on the central side the pay-scales have been enhanced and age of superannuation under certain categories has also been increased to 65 years, that the applicants wish to take benefit of the enhanced age of superannuation on the central side. However, the notification of 1992 was originally issued on their own demand and the applicants have been taking benefits under this notification for substantial period of time. The employees now have little or no justification for trying to wriggle out of applicability of 1992 notification to them. The notification was a composite deal and the U.T. employees were to be totally governed by the Punjab Civil Services rules and the orders as applicable to corresponding category of persons. As stated by the respondents - and not denied by the applicants' side - in Punjab Government, the age of retirement continues to be 58 years. As such, the applicants being governed by the same set of rules and orders, will have to follow the same.

26. We further observe that in the proviso to 1992 Rules, the Administrator has been made competent to revise the pay



scale from time to time so as to bring them at par with the scales of pay which may be sanctioned by the Government of Punjab from time to time to corresponding categories to employees. Thus this proviso is also enforcing the argument that total equivalence was to be maintained between employees of U.T. Chandigarh and Punjab Civil Services. U.T. Chandigarh employees cannot have the benefit of notification of 1992 when it was better for them and now seek to switch over to Central side and thus, try to get the benefit of best of each between of the two sets of Rules.

27. We further observe that both AICTE Act of 1987 and UGC Act are prior to 1992 notification and there is no change on the legislative side to nullify or change the applicability of 1992 notification to the applicants. It is true that 2010 and 2019 Regulations of AICTE and similarly UGC Regulations of 2010 are of later date than the notification of 1992. However, none of these, in any manner, can be said to be proviso made by the President. This was the only condition to which the applicability of 1992 notification was subject to. Hence, on this ground also, the 1992 notification continues to be applicable to the applicants.

28. We further observe that 2010 Regulations of AICTE are applicable to technical institutions and universities including deemed universities imparting technical education and other such courses/programmes in areas as notified by the Council from time to time. This is provided in Regulation 1.2 of these



Regulations. Similarly, 2019 Regulations also applicable to all degree level technical institutions and universities including deemed universities imparting technical education and such other courses and programmes approved by AICTE and so notified by the Council from time to time. As stated by the respondents, the Government College of Arts and College of Architecture, Chandigarh are both not technical institutions as defined by AICTE in the AICTE Act. They are only affiliated to AICTE to the extent that their courses are approved by AICTE and AICTEE is maintaining some supervision/control in view of function of AICTE to lay down the norms and standard for technical education. None of these institutions are central universities. They are also not Centrally funded institutions as has been made clear by the respondents in their written statement. Even Centrally funded institutions employees are ordinarily not Government employees but are the employees of the institution itself and are governed by separate institutional rules and regulations. These two colleges are affiliated to Punjab University which is not a Central University nor a Central educational institution nor a centrally funded institution. Hence, the AICTE Regulations have no relevance for the applicants.

29. The counsel for the applicants also argued that there are no corresponding categories of employees in Government of Punjab and as such 1992 Regulations are no longer valid for the applicants. This argument of the counsel for the applicants is based on the plea that there is no College of Architecture or College of Arts in Punjab. We fail to understand as to how, if



there were no corresponding posts in Punjab, the applicants and other employees of these colleges were getting their salaries since 1992. Some equivalence would obviously have been drawn at that time with the employees of Punjab Government. For the applicants to say now that there is no equivalent post is like waking up after 28 years of issue of notification of 1992.

30. Further, we find that Regulations of 2010 and 2019 basically fix pay scales of the faculty in technical institutions or Universities. Here, there are mainly 3 categories of faculty- Assistant professor, Associate Professor and Professor. We have carefully gone through these notifications and find nothing at all to show that separates and distinguishes fields of arts and architecture from other fields as far as conditions of service and pay-scales are concerned. The only variation in different fields as per these notifications are with regard to educational qualifications which are obviously different for different fields. There are also different pay scales for library staff and some incentives are given for Ph.D., M. Tech and other higher qualifications. Separate pay-scales are also provided for Principals and Directors of Colleges. However, there is no segregation whatsoever between the pay scale of an Associate Professor in arts and architecture to one from another field of say science and languages. Thus, the plea of the applicants that there are no corresponding posts as there is no College of Architecture or Arts in Punjab is not justified. Similar is the case for the Regulations of 2019 where cadre strength and other issues are also taken into account. However, even here,



there is no differentiation for faculty in different fields than with regard to educational qualifications for direct recruitment. The pay scale and other conditions of service of faculty of different fields are on the same footing. Thus, the plea of the applicants that 1992 notification is not applicable to them as there are no corresponding posts is not admissible even vis-a-vis these Regulations. In fact, even though these Regulations are not applicable to the applicants, both of them support the conclusion drawn by us that there is no need to seek corresponding posts in individual field of education and hence, there would obviously be corresponding posts in State of Punjab if we consider other fields of education where the Punjab has number of colleges within the State.

31. We further observe that the case is already decided by this Tribunal in the case of K.L. Sodhi (*supra*) where it has been held that unless policy decision is taken by the executive regarding age of superannuation, no benefit can be granted to the applicants.

32. Both the applicants and respondents have quoted various judicial pronouncements in their support. However, in view of the specific facts of this case and the observations and clear position emerging therefrom, we find that these judgements are not directly relevant to the present case. This is especially so in view of special dispensation of 1992 Rules made by the President of India for the UT Chandigarh employees on demand by the employees union itself.



33. In view of the observations and findings made above and the peculiar facts of this case, we do not find any merit in the OA. The same is, therefore, dismissed. There shall be no order as to costs.

**(AJANTA DAYALAN)**  
**Member (A)**

**(SANJEEV KAUSHIK )**  
**Member (J)**

Place: Chandigarh

Dated: 27.10.2020

SK