



2025:UHC:5036-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 198 of 2019

17 June, 2025

C.S.R. Linga Reddy

--Petitioner

Versus

The Secretary, Government of India,
Ministry of Human Resource Development (Department
of Higher Education), Shashtri Bhawan, New Delhi
And Others

--Respondents

Presence:-

Mr. I. D. Paliwal and Mr. Bhupendra Prasad, Advocate for the petitioner.

Ms. Anjali Bhargawa, Advocate for respondent no.2.

Mr. Aditya Singh, Advocate for respondent no. 3 and 4.

Mr. Tapan Singh, Advocate for respondent no.5.

Mr. Nikhil Kushwaha, holding brief of Mr. Himanshu Pal, Advocate for respondent no. 6.

JUDGMENT

Hon'ble Manoj Kumar Tiwari, J.

Hon'ble Subhash Upadhyay, J.

(Per: Hon'ble Manoj Kumar Tiwari, J.)

By means of this writ petition, petitioner has sought the following reliefs:

"i) Issue a writ, order or direction in the nature of certiorari quashing the appointment order dated 31.10.2018 passed by the Registrar of the Gurukul Kangri Vishwavidhyalaya Haridwar whereby the Registrar has appointed respondent nos. 5 & 6 herein to the post of Assistant Professor respectively in Jyotish/Jyotir Vigyan and Vedic Karamkand and in Sanskrit Department of the Gurukul Kangri Vishwavidhyalaya Haridwar.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to declare the result of the petitioner for the post of Assistant



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Professor in the departments of Jyotish/Jyotir Vigyan and Karmkand and also in Sanskrit department of the aforesaid Vishwavidhyalaya.”

2. Gurukula Kangri Vishwavidyalaya (hereinafter referred to as the ‘University’) issued an advertisement no. GVK/Estt./02/2016, inviting applications for various teaching posts including the post of Assistant Professor, Sanskrit and Assistant Professor, Jyotirvigyan & Vedic Karmkand. Petitioner responded to the said advertisement and applied for the aforesaid two posts. Petitioner was called for interview, for both the posts, which was held on 2.11.2017. Since petitioner was not selected on any of the two posts, while respondent no. 5 and 6 were selected and appointed, therefore, petitioner has challenged their appointment on the following grounds:

(i) Respondent no. 5 had not qualified National Eligibility Test (NET), yet he was appointed as Assistant Professor, Jyotirvigyan & Vedic Karmkand, even though his Ph.D. degree was not as per University Grants Commission (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degree), Regulations 2009;

(ii) Ph.D. degree of respondent no. 5 was not awarded in regular mode, as he was serving as part-time teacher in Gurukula Kangri Vishwavidyalaya during the period of Ph.D.;

(iii) Respondent no. 6 although had qualified National Eligibility Test, however, his Ph.D. degree is not as per University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree), Regulations 2009.

3. Learned Counsel appearing for the University



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submits that challenge to the selection and appointment of respondent no. 5 and 6 thrown by the petitioner is without any substance. He submits that respondent no. 5 and 6 were appointed on the recommendation of a duly constituted selection committee consisting of subject experts and the assessment made by selection committee is not open to judicial review. He further submits that selection was made in a fair and transparent manner and there is no allegation of nepotism or favoritism, in the writ petition, against any Member of selection committee.

4. As regards eligibility of respondent no. 5 for his appointment based on his Ph.D. degree, learned Counsel for the University submits that respondent no. 5 was awarded Ph.D. degree by Sampuranand Sanskrit University, Varanasi and the competent authority in the said university has issued a certificate that the Ph.D. degree awarded to respondent no. 5 fulfils all five criteria indicated in UGC (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for maintenance of standards in higher education) (4th Amendment) Regulations, 2016, notified on 11.7.2016. Certificate issued by Sampuranand Sanskrit University in favour of respondent no. 5 is enclosed with the counter affidavit filed by respondent no. 5.

5. Regulation 3 of the 4th Amendment Regulations 2016, notified on 11.7.2016, is extracted below:

"3. The proviso prescribed under Regulation 3.3.1, 4.4.1, 4.4.2, 4.4.2.2, 4.4.2.3, 4.5.3 and 4.6.3 in the



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University Grants Commission (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and other measures for the maintenance of standards in higher education) (3th Amendment) Regulations, 2016 regarding exemption to the candidates registered for Ph.D. programme prior to July 11, 2009 shall stand amended and be read as under:-

"Provided further, the award of degree to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/Bylaws/Regulations of the Institutions awarding the degree and the Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

a) Ph.D. degree of the candidate awarded in regular mode only;

b) Evaluation of the Ph.D. thesis by at least two external examiners;

c) Open Ph.D. viva voce of the candidate had been conducted;

d) Candidate has published two research papers from his/her Ph.D. work out of which at least one must be in a referred journal;

e) Candidate has made at least two presentations in conferences/seminars, based on his/her Ph.D. work.

(a) to (e) as above are to be certified by the Vice-Chancellor / Pro-Vice-Chancellor / Dean (Academic Affairs) / Dean (University instructions)."

6. Aforesaid provision contemplates issuance of a certificate by the competent authority in the University which awarded Ph.D. degree and the competent authority in Sampuranand Sanskrit University has issued such certificate in favour of respondent no. 5 that it meets all five criteria laid down in UGC Regulations, 2016, therefore the contention that Ph.D. degree awarded to respondent no. 5 was not in regular mode cannot be accepted. Since UGC



Regulations, 2016 treats such certificate issued by the University to be final, therefore, this Court cannot go into the correctness of the certificate, especially when there is no challenge to the correctness of the certificate.

7. The advertisement whereby selection process, in question, was initiated is enclosed as Annexure-3 to the writ petition. Clause 4 of the General Conditions and Information for Applicants, as mentioned in the advertisement, is extracted below:-

“4. The candidates holding Ph.D. degree and require exemption from NET/SET/SLET must produce certificate from competent authority that Ph.D. degree awarded to them is in compliance with University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree), Regulations 2009. Further, the award of degrees to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/ By laws/ Regulations of the Institution awarding the degrees and the Ph.D candidates shall be exempted from the requirement of the minimum eligibility condition of "NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities / Colleges /Institutions subject to the fulfillment of the conditions prescribed by the UGC as per 3rd Amendment, Regulations 2016 of UGC (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in higher education) and amendments therein from time to time.”

8. A careful perusal of Clause 4 of the General Conditions reveals that NET/SLET/SET is one of the essential qualifications of the eligibility, however the said essential qualification is relaxable in favour of the candidates holding Ph.D. degree, if they are able to produce certificate from the competent authority that Ph.D. degree awarded to them is in compliance with the



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University Grants Commission (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degree) Regulations, 2009. In Clause 4 of the advertisement, reference is also made to UGC (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for maintenance of standards in higher education) Regulations, 2016.

9. Since respondent no. 5 was issued a certificate by competent authority in Sampuranand Sanskrit University that his Ph.D. degree meets all five criteria indicated in UGC Regulations, 2016, therefore, challenge to the eligibility of respondent no. 5 for the post of Assistant Professor is without any substance.

10. Petitioner has challenged selection and appointment of respondent no. 5 and 6 on the ground that Ph.D. degree possessed by them is not as per University Grants Commission (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degree) Regulations, 2009, therefore they are ineligible for appointment as Assistant Professor. This aspect was considered and discussed by three-Judges Bench of Hon'ble Supreme Court in the case of *University of Kerala and others v. Marlin J.N. and another*, reported in (2022) 9 SCC 389, in which it was held that UGC Regulations of 2016 are applicable retrospectively and candidates with Ph.D. degree, which is not as per UGC Regulations, 2009, cannot be treated as ineligible. Relevant extract of the said judgment is extracted below:-



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"9. Before this Court, it was argued on behalf of Dr Jayakumar as well as the University that the former's appointment was in accordance with the extant law and regulations. It was emphasised that the University adopted the 2009/10 UGCR only with effect from 23-11-2013. In these circumstances, when the advertisement was published, as also when Dr Jayakumar was appointed in August 2012, he was fully qualified and entitled to be appointed as Lecturer. It was further contended that prior to Dr Jayakumar's appointment, the UGC had, through its Resolution dated 12-8-2010 passed in its 471st meeting, clarified that 2009 PhD Regulations and 2009 UGCR were prospective in nature, and not retrospective:

"[A]ll candidates who had either obtained PhD on or before 31-12-2009 and such candidates who had registered themselves for PhD degree on or before 31-12-2009 were exempt from the requirement of NET."

10. It was argued on behalf of the appellant that the fourth amendment placed the matter beyond any doubt because it rendered eligible candidates who had acquired their PhD degree before 11-7-2009. In this regard, great emphasis was placed on the following:

"The proviso prescribed under Regulations 3.3.1, 4.4.1, 4.4.2, 4.4.2.2, 4.4.2.3, 4.5.3 and 4.6.3 in the University Grants Commission (Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Other Measures for the Maintenance of Standards in Higher Education) (3th Amendment) Regulations, 2016 regarding exemption to the candidates registered for PhD programme prior to 11-7-2009 shall stand amended and be read as under:

Provided further, the award of degree to candidates registered for the MPhil/PhD programme prior to 11-7-2009, shall be governed by the provisions of the then existing Ordinances/bye-laws/regulations of the institutions awarding the degree and the PhD candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfilment of the following conditions:

(a) PhD degree of the candidate awarded in regular mode only;

(b) Evaluation of the PhD thesis by at least two external examiners;

(c) Open PhD viva voce of the candidate had been conducted;

(d) Candidate has published two research papers from his/her PhD work out of which at least one must be in a refereed journal;

(e) Candidate has made at least two presentations in conferences/seminars, based on his/her PhD work.

(a) to (e) as above are to be certified by the Vice-Chancellor/Pro Vice-Chancellor/Dean (Academic Affairs)/Dean (University instructions)." [Regn. 3, 2016 UGCR.]

11. It was argued on behalf of Dr Merlin that Dr Jayakumar was ineligible and could not have been granted exemption from the



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NET qualification which was essential under the prevalent 2009/10 UGCR. It was highlighted that the 2009 PhD Regulations ushered a new rigorous academic framework for the award of PhD degrees. If one kept this in mind, the stipulation that only those candidates who acquired their PhD in terms of the 2009/10 UGCR were eligible for exemption from taking the NET — such a stipulation was absolute. In other words, candidates who had acquired their PhD in terms of the 2009/10 UGCR were the only class of candidates who were exempt from having to qualify the NET. Since Dr Jayakumar did not fall in that class, but had obtained his PhD much earlier, the exemption did not apply to him. To be eligible, he had to have taken the NET. It was submitted that Dr Merlin on the other hand, was better qualified because she had passed the NET in 1998 and had later obtained a PhD. Further, she was working in the University of Kerala as a contractual teacher since 2001. Despite these factors, the University proceeded to appoint Dr Jayakumar and ignored her candidature. As between the two of them, she alone was qualified, whereas Dr Jayakumar was not. It was submitted that the appellant Dr Jayakumar could not rely upon the resolution of UGC taken in its 471st meeting.

12. The learned Senior Counsel for Dr Merlin urged that the UGC's resolution was contrary to the express terms of the 2010 UGCR. This became the subject-matter of controversy since the Central Government had expressed its disagreement with the resolution, in a Letter dated 23-11-2010. This controversy was discussed in the decision of this Court in *P. Suseela v. UGC*, (2015) 8 SCC 129 : (2015) 2 SCC (L&S) 633 : 7 SCEC 333]. The learned counsel relied upon that judgment to urge that this Court had categorically ruled that UGC's resolution taken in its 471st meeting could not provide any relief to candidates similarly situated as Dr Jayakumar as it was at odds with the Central Government's directives which had to prevail in terms of the parent enactment. [University Grants Commission Act, 1956 (hereinafter "the UGC Act").] The learned Senior Counsel also relied upon the subsequent judgment in *Manoj Sharma v. State of M.P.* (2018) 3 SCC 329 : (2018) 1 SCC (L&S) 585]. It was further argued that the 2016 UGCR were expressly prospective in nature — those possessing PhD qualifications prior to the cut-off date of 11-7-2009 but seeking to benefit from the 2016 UGCR had to fulfil specific conditions (as mentioned above) which were absent hitherto. In the same vein, it was highlighted that though UGC has the power to frame regulations with retrospective effect [by Section 26(3) of the UGC Act] the 2016 UGCR is expressly prospective and that this Court should not, by interpretation, give it retrospective effect, as is being sought by the appellants. In these circumstances, there could be no question of Dr Jayakumar seeking to benefit from the 2016 UGCR which came into force after his appointment. Having regard to these facts, it was urged that this Court should desist from interfering with the concurrent findings of the High Court.

13. From the narration of facts, it is evident that for long, whenever the UGC introduced regulations pertaining to qualifications for university teaching staff, exemptions were provided for PhD and MPhil holders from the requirement of qualifying in the NET. This is evident from the successive changes which UGC introduced in the relevant regulations dealing with eligibility and qualifications for appointment as Assistant Professors, Associate Professors, etc. in 1993, 2000, 2002 and 2006. The 2009 PhD Regulations were the first time that the pedagogic content of curriculum and manner in which evaluation of thesis/viva voce, etc. were spelt out. Building on this, the 2009/10 UGCR dealt with the qualifications for appointment of teaching staff in universities, and made a break with the past



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inasmuch as only those who had earned their PhD in terms of the 2009 PhD Regulations or were to earn them under that regime were entitled to the exemption from taking the NET.

14. This meant that a large group of PhD holders (such as Dr Jayakumar in this case) who had been awarded their doctoral degrees prior to 11-7-2009 i.e. the cut-off date under the 2009 UGCR, suddenly became disentitled to claim exemption and were per force made to appear and qualify in the NET. The UGC become aware of this situation and by two resolutions dated 12-8-2010 and 27-9-2010, opined that since the regulations are prospective in nature, all candidates having MPhil degree on or before 10-7-2009 and all persons who obtained the PhD degree on or before 31-12-2009 and had registered themselves for the PhD before this date, but would be awarded such degree subsequently, shall remain exempted from the requirement of NET for the purpose of appointment as Lecturer/Assistant Professor. However, as the facts discussed in P. Suseela [P. Suseela v. UGC, (2015) 8 SCC 129 : (2015) 2 SCC (L&S) 633 : 7 SCEC 333] reveal — the Central Government did not agree with the opinion of the UGC. Some correspondence took place between the two authorities i.e. the UGC and the Central Government. It was in the background of these facts that the petitioner in P. Suseela [P. Suseela v. UGC, (2015) 8 SCC 129 : (2015) 2 SCC (L&S) 633 : 7 SCEC 333] had approached the Allahabad High Court (as did some other candidates in other High Courts). The differing decisions of the various High Courts led to appeals before this Court by special leave. In the batch of cases decided by P. Suseela [P. Suseela v. UGC, (2015) 8 SCC 129 : (2015) 2 SCC (L&S) 633 : 7 SCEC 333], the question of application of exemption from NET for candidates who obtained PhD under the old regime (i.e. prior to the coming into the force of the 2009 PhD Regulations) was considered — specially whether the distinction between pre-and post-2009/10 UGCR PhD holders amounted to an impermissible classification, whereby one set (pre-2009) was denied exemption which the other set (post-2009) was entitled to.

15. This Court in P. Suseela [P. Suseela v. UGC, (2015) 8 SCC 129 : (2015) 2 SCC (L&S) 633 : 7 SCEC 333] ruled that since the Central Government was the final authority under the UGC Act, it had the final say with regard to how the 2009/10 UGCR were going to operate. It was held that the regulations had to be construed in such a manner that only those acquiring their PhD degree or after 11-7-2009 in terms of the 2009 PhD Regulations were entitled to the exemption.

16. The facts of this case would reveal that the selection process was completed in 2012. There is no doubt that at that stage, the 2009 PhD Regulations and 2009/10 UGCR were in force. Yet the University appointed Dr Jayakumar by applying the existing standards as understood by it. According to the University, the 2009/10 UGCR was incorporated in its statute only in 2013. In the opinion of this Court, that detail is irrelevant. What is undeniable is that like Dr Jayakumar, there are perhaps hundreds of other PhD candidates who had secured their degrees prior to the 2009 PhD Regulations and who were, till the 2009/10 UGCR were brought into force, entitled to claim exemption from NET in every selection for any teaching vacancy in any university in India. This state of affairs led the UGC to issue clarifications, which the Central Government did not agree to. The appellant Dr Jayakumar fell within that category of PhD holders for whom the UGC intended to soften the rigours of the 2009/10 UGCR. However, lack of approval by the Central Government led to litigation which culminated in P. Suseela.

17. P. Suseela appears facially, to adversely clinch the issue with



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respect to pre-2009 PhD holders. The UGC perhaps realised the hardship which they had to endure (with many of them even appointed in various universities on account of the resolution adopted in UGC's 471st meeting on 12-8-2010), and therefore amended the Regulations once more (2016 UGCR), which read as follows:

"3. The proviso prescribed under Regulations 3.3.1, 4.4.1, 4.4.2, 4.4.2.2, 4.4.2.3, 4.5.3 and 4.6.3 in the University Grants Commission (Minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and other measures for the maintenance of standards in higher education) (3th Amendment) Regulations, 2016 regarding exemption to the candidates registered for PhD programme prior to 11-7-2009 shall stand amended and be read as under:

Provided further, the award of degree to candidates registered for the MPhil/PhD programme prior to 11-7-2009, shall be governed by the provisions of the then existing Ordinances/Bylaws/Regulations of the Institutions awarding the degree and the PhD candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/institutions subject to the fulfilment of the following conditions ..." v

(emphasis supplied)

18. The intention of the UGC to protect the pre-2009 PhD holders, who may have been appointed in various universities and taught for many years, is evidently clear in the language adopted. To make the intention even clearer, the 2018 UGCR, published on 18-7-2018, bifurcated the pre- and post-2009 PhD holders into two groups, and allowed both exemption from taking the NET, as follows:

"I. The National Eligibility Test (NET) or an accredited test (State Level Eligibility Test SLET/SET) shall remain the minimum eligibility for appointment of Assistant Professor and equivalent positions wherever provided in these Regulations. Further, SLET/SET shall be valid as the minimum eligibility for direct recruitment to Universities/Colleges/Institutions in the respective state only:

Provided that candidates who have been awarded a PhD degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of MPhil/PhD Degree) Regulation, 2009, or the University Grants Commission (Minimum Standards and Procedure for Award of MPhil/PhD Degree) Regulation, 2016, and their subsequent amendments from time to time, as the case may be, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or any equivalent position in any University, College or Institution:

Provided further that the award of degree to candidates registered for the MPhil/PhD programme prior to 11-7-2009, shall be governed by the provisions of the then existing Ordinances/Bye-laws/Regulations of the Institutions awarding the degree. All such PhD candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfilment of the following conditions..."



19. This Court did not have the benefit of examining these amendments to the regulations in *P. Suseela or Manoj Sharma*. To construe them as applying only prospectively, would give rise to an absurdity, and defeat the purpose for which the amendment was promulgated. The manner of interpretation of amendments, where the language adopted gives clear inference of retrospective application, was determined by this Court in *Rafiquennessa v. Lal Bahadur Chettri*, which pertained to the bar on eviction of tenants brought about retrospectively by an amendment :

“9. ... In order to make the statement of the law relating to the relevant rule of construction which has to be adopted in dealing with the effect of statutory provisions in this connection, we ought to add that retrospective operation of a statutory provision can be inferred even in cases where such retroactive operation appears to be clearly implicit in the provision construed in the context where it occurs. In other words, a statutory provision is held to be retroactive either when it is so declared by express terms, or the intention to make it retroactive clearly follows from the relevant words and the context in which they occur.”

This interpretation has withstood the test of time, and was upheld in the decision of *Darshan Singh v. Ram Pal Singh* which succinctly stated : (SCC p. 213, para 37)

“37. ... courts will construe a provision as conferring power to act retroactively when clear words are used.”

20. Further, in *Shyam Sunder v. Ram Kumar*, a Constitution Bench of this Court discussed the scope and ambit of a declaratory law and observed : (SCC p. 49, para 39)

“39. Lastly, it was contended on behalf of the appellants that the amending Act whereby new Section 15 of the Act has been substituted is declaratory and, therefore, has retroactive operation. Ordinarily when an enactment declares the previous law, it requires to be given retroactive effect. The function of a declaratory statute is to supply an omission or to explain a previous statute and when such an Act is passed, it comes into effect when the previous enactment was passed. The legislative power to enact law includes the power to declare what was the previous law and when such a declaratory Act is passed, invariably it has been held to be retrospective. Mere absence of use of the word “declaration” in an Act explaining what was the law before may not appear to be a declaratory Act but if the court finds an Act as declaratory or explanatory, it has to be construed as retrospective. Conversely where a statute uses the word “declaratory”, the words so used may not be sufficient to hold that the statute is a declaratory Act as words may be used in order to bring into effect new law.”

21. The respondents herein had submitted that it was not the UGC's intention to give retrospective effect to the 2016 UGCR, even though the UGC had the power to do so under Section 26(3) of the UGC Act. It was additionally urged that in such circumstances, the court should not interpret the amendments so as to confer such benefits retrospectively, especially to pending proceedings.

22. This Court is unpersuaded by such contentions. In situations such as these, a retrospective restoration of rights which had



earlier been taken away, will certainly affect pending proceedings — however, it is the duty of the courts, whether trying original proceedings or hearing an appeal, to take notice of the change in law affecting pending actions and to give effect to the same. If on such consideration, it is held by the court that an amendment speaks a language which expressly or by clear intendment takes in even pending matters, the court of first instance as well as the court of appeal must have regard to the intention so expressed, and the court of appeal may give effect to such a law even after the judgment of the court of first instance.

23. When an enactment or an amendment is declaratory, curative or clarificatory, impelled by a felt need to make clear what was always intended, such amendment is usually meant to operate from an antecedent date, or to cover antecedent events. This position was clarified in *CIT v. Shelly Products* where this Court, while interpreting an amendment, held that : (SCC p. 478, para 38)

“38. ... It seeks to clarify the law so as to remove doubts leading to the courts giving conflicting decisions, and in several cases directing the Revenue to refund the entire amount of income tax paid by the assessee where the Revenue was not in a position to frame a fresh assessment. Being clarificatory in nature it must be held to be retrospective, in the facts and circumstances of the case. It is well-settled that the legislature may pass a declaratory Act to set aside what the legislature deems to have been a judicial error in the interpretation of statute. It only seeks to clear a meaning of a provision of the principal Act and make explicit that which was already implicit.”

24. Likewise, in *Zile Singh v. State of Haryana* , this Court, quoted from G.P. Singh's *Principles of Statutory Interpretation* (9th Edn.), and applied the relevant rule of construction : (SCC p. 9, para 14)

“14. ... If a new Act is “to explain” an earlier Act, it would be without object unless construed retrospective. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended. ... An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect.”

25. Another argument raised by the respondent was that this Court's decision in *Manoj Sharma* squarely held against the appellants. We disagree. In *Manoj Sharma* , the respondents had obtained MPhil degrees under distance education programs, which was de-recognised by the 2009 PhD Regulations. The Madhya Pradesh High Court held that such de-recognition was prospective in nature, and their MPhil degrees were not rendered ineffective, which was upheld by this Court. As far as the issue of application of 2009 UGCR was concerned, the same was restricted to only MPhil degree-holders, wherein the 2009 UGCR removed the NET exemption granted for MPhil degree-holders, and retained it only for PhD holders in accordance with 2009 PhD Regulations. Again, this Court was not afforded the opportunity to analyse the 2016 or 2018 UGCR, as those were not raised before it (the respondents were unrepresented before this Court). Thus, we find limited applicability of *Manoj Sharma* to the present case.

26. The logic pervading all the versions of the UGCR from 1993-



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2018 (as discussed above) to exempt MPhil/PhD holders from qualifying in the NET was perhaps premised on the understanding that such a doctorate in one's chosen subject, involving years of study, would render a greater understanding of the subject compared to most other candidates taking the NET who have only obtained a Master's degree. Such qualification (MPhil or PhD) is undoubtedly awarded for a proven proficiency of the candidate in the subject or discipline concerned. This is apparent from the minimum qualification requirements of different positions as well, for e.g. while a Master's degree is sufficient for application to the post of Assistant Professor, a PhD is required for applying to the post of Associate Professor onwards. [See Regn. 4.1, 2018 UGCR, applicable to all disciplines of Arts, Commerce, Humanities, Education, Law, Social Sciences, Sciences, Languages, Library Science, Physical Education, and Journalism & Mass Communication.] To interpret the 2018 UGCR prospectively would imply that a pre-2009 PhD holder's appointment would be rendered illegal, and after having taught for several years, he/she would lose his/her seniority and all accrued benefits and would now have to take the NET in order to teach — which is clearly unwarranted. This Court therefore, holds that Dr Jayakumar's appointment is protected by the 2016 UGCR, which is applicable retrospectively.

27. Thus, the appeals are allowed. The impugned judgment is set aside, and all applications are disposed of accordingly. There will be no order as to costs.”

11. In view of the law declared by Hon'ble Supreme Court in the case of *University of Kerala v. Marlin J.N.* (supra), respondent no. 5 and 6 cannot be held to be ineligible merely because their Ph.D. degree is not as per UGC Regulations, 2009. The UGC Regulations, 2016 provides that if competent authority in the University, which awarded Ph.D. degree, certifies that the concerned candidate has fulfilled the five conditions enumerated in Regulation 3 thereof, then he is to be treated as eligible for appointment and the concerned University has issued such certificate in favour of respondent no. 5 that his Ph.D. degree meets all five conditions enumerated in UGC Regulations, 2016, therefore challenge to selection and appointment of respondent no. 5 on the ground that his Ph.D. degree was not awarded in regular mode cannot be accepted.



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12. For the aforesaid reasons, this Court do not find any reason to interfere in the matter. Writ petition thus fails and is dismissed.

(Subhash Upadhyay, J.) (Manoj Kumar Tiwari, J.)

17.06.2025

Sukhwant