HIGH COURT OF MADHYA PRADESH: JABALPUR

(Full Bench)

Writ Appeal No. 613/2016

State of Madhya Pradesh **.............Appellants**
and others

- V/s -

Yugal Kishore Sharma **.......... Respondent**

CORAM :

Hon'ble Shri Justice Hemant Gupta, Chief Justice
Hon'ble Shri Justice Vijay Kumar Shukla, Judge
Hon'ble Shri Justice Subodh Abhyankar, Judge

Appearance:

Shri P.K. Kaurav, Advocate General with Shri Samdarshi Tiwari, Additional Advocate General and Shri Amit Seth, Government Advocate for the appellants/State.

Shri Umesh Shrivastava, Advocate for the respondent.

Whether Approved for Reporting : **Yes**

Law Laid Down:

==> The context in which other judgments are rendered interpreting a word appearing in a statute are not relevant for the purpose of the Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiniyam, 1967. The provisions of the Act, as amended by Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Dwitiya Sanshodhan Adhiniyam, 1998 are required to be interpreted keeping in view the language, context, object and purpose of the Statute in question.

==> The amendments in the Act so as to extend the age is a beneficial provision for a class of employees, who are teachers. The 'Teacher', as per the explanation, has been given widest possible connotation - not restricted to teachers in Government schools or colleges or different ranks and status but all teachers from the lowest to the highest rank.

==> The expression "Government Educational Institutions" in the explanation in the Amending Act cannot be given a restricted meaning, as the expression used is

"Teacher engaged for the purpose of teaching including technical or medical educational institutions". The expression Technical Educational Institution will receive wide connotation that will include the women training institutes or other vocational training institutes to make the enrolled candidates self-reliant, therefore, such institutes would satisfy the test of being technical institutes.

==> If two statutes dealing with the same subject use different language then it is not permissible to apply the language of one statute to other while interpreting such statute.

==> That, while interpreting an expression in the statute recourse should not be made to the scientific meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. This is what is known as "common parlance test".

==> That, having regard to beneficial object which the legislature had in view, it should receive a liberal interpretation.

==> In view of the dictionary meaning of the word "educational institution", and keeping in view that object of National Cadet Corps is to develop leadership, character, comradeship and to create a force of disciplined and trained manpower and to develop officer-like quality in students, therefore, we find that the training of the students by the Instructors in the NCC and in weaving would be a "Teacher" for the purpose of the Act.

<u>The judgments of this Court - Approved</u>:

*1988 MPLJ 196 (Maina Swamy vs. State of M.P. and others) (**DB**)*

*2003 (4) M.P.H.T. 484 (Chokhelal Sahu vs. State of M.P. and others (**SB**)*

*W.P. No.2289/2003 (Annapurna Prasad Shukla vs. State of M.P. and others) order passed on 07.11.2003 (**SB**)*

<u>The judgments of this Court - Disapproved</u>:

Judgment dated 23.08.2016 in W.A. No.402/2016 (Ashok Kumar Gupta vs. State of M.P. and others) (**DB**)

1987 M.P.L.J. 500 (Mahendra Pal Singh vs. State of M.P. and others); **(DB)** (*part thereof*);

2007 (4) MPHT 147 (S.A.M. Ansari vs. State of M.P.) (**SB**);

2001 (2) M.P.H.T. 373 (Smt. Maya Verma vs. Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur) (**SB**)

Significant Paragraph Nos.: 8, 9, 16, 17, 19, 20 to 43

Order Reserved on : 18.01.2018

<u>O R D E R</u>

(<u>25-01-2018</u>)

<u>Per : Hemant Gupta, Chief Justice</u>:

The present intra-Court appeal is directed against an order passed by the learned Single Bench on 13.08.2014 in W.P. No. 4030/2009 (Yugal Kishore Sharma vs. State of M.P. and others) whereby the writ petition directed against an order dated 06.03.2009 superannuating the writ-petitioner at the age of 60 years was allowed.

02. On 25.09.2017, a Division Bench of this Court while hearing the present appeal along with a bunch of intra-Court appeals involving the identical questions of law and fact such as W.A. No.686/2016 (State of M.P. vs. Smt. Ravi Jain), W.A. No.690/2016 (State of M.P. vs. Smt. Madurima Singh), W.A. No.726/2016 (State of M.P. vs. uuuuSiyaram Sahu), W.A. No.727/2016 (State of M.P. vs. Ku. Shikha Khare), W.A. No.728/2016 (State of M.P. vs. Smt. Usha Awasthy) and W.A. No.745/2016 (State of M.P. vs. Smt. Durga Jaiswal), has referred the following questions for the opinion of the Larger Bench:-

> **(1)** Whether the writ-petitioners who are not designated and classified in the cadre of a `teacher' under relevant Recruitment Rules but, are engaged in teaching or imparting training, can be held to be a `teacher' for the purpose of the age of superannuation under Fundamental Rule 56?
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> **(2)** Whether training centres, nursing centres, vocational training centres and Yoga centres of the State Government can be held to be an `educational institution' for extending the benefit of age of superannuation to a person imparting training in these institutions, under Fundamental Rule 56?

03. Learned Advocate General appearing for the appellants-State submits that the services of all the writ-petitioners are governed by Madhya Pradesh Panchayat & Social Welfare Class-III (Executive) Service Recruitment Rules, 1967 (for short "the Rules") as the writ-petitioners are appointed in the Social Welfare Department. It is contended that there is no writ-petition relating to Nursing Centres or Yoga Centres, therefore, Question No.(2) requires to be modified so as to delete the reference made to Nursing Centres and Yoga Centres. Since there is no dispute regarding the said fact, therefore, Question No.(2) stands modified to that extent.

04. The facts, in brief, leading to the present reference are that the writ-petitioner was appointed in the office of Women & Child Development Department on 13.01.1981 as Junior Weaving Instructor. The petitioner asserts that he has been teaching the students of tailoring and cutting and the job assigned to the petitioner was to give training to the students in the Training Centre. Since the petitioner, as an Instructor, is a Teacher, therefore, he is entitled to extension in age of superannuation up to 62 years by virtue of the amendment in Fundamental Rule 56 vide Section 2 of the Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Dwitiya Sanshodhan Adhiniyam, 1998 [M.P. Act No.27 of 1998] (for short "the Amending Act"), therefore, the order passed i.e. to retire him on attaining the age of 60 years is not legal.

05. It may be stated that initially Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Adhiniyam, 1967 [No.29 of 1967] (for short "the Act")

was enacted to fix the age of superannuation of the employees of the State. Such Act was amended by M.P. Act No.35 of 1984, w.e.f. 05.09.1984 which provided that every Government teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years while 58 was the age of superannuation of other Government servants. By virtue of the Amending Act (M.P. Act No.27 of 1998), the following amendment was carried out by which the age of retirement of Teachers was extended to 62 years while age of other Government servants was fixed at 60 years. The relevant clause of the Amending Act read as under:-

> "2. **Amendment of Fundamental Rule 56 as substituted by Section 2 of the Madhya Pradesh Act No.29 of 1967**. -
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> *** *** ***
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> "(1-a) Subject to the provisions of sub-rule (2), every Government Teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty two years:
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> Provided that a Government teacher whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty two years.
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> **Explanation**. - For the purpose of this sub-rule "Teacher" means a Government servant by whatever designation called, appointed for the purpose of teaching in Government educational institution including technical or medical educational institutions, in accordance with the recruitment rules applicable to such appointment and shall also include the teacher who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than twenty years provided he holds a lien on a post in the concerned School/Collegiate/Technical/ Medical education service."

06. Initially, the writ petition filed by the writ-petitioner was allowed by the learned Single Bench on 02.01.2013. The learned Single Bench relied upon a judgment of the Supreme Court reported as **AIR 1968 SC 662 (S.**

Azeez Basha and another vs. Union of India) wherein the word “Educational Institutions” are held to be of very wider import and would include a ‘University’ also. Reliance was also placed upon another Supreme Court judgment reported as **AIR 1997 SC 1436 (Aditanar Educational Institution vs. Additional Commissioner of Income Tax**) and upon a Single Bench decision of this Court reported as **2007 (4) MPHT 147 (S.A.M. Ansari vs. State of M.P.**) to hold that the word “Educational Institution” is wide and that in view of **Ansari**'s case **(supra**) the Instructors are to be treated as teachers for the purpose of Amending Act. Considering the said fact, it was held that age of superannuation of the teachers would be 62 years. The order passed by the learned Single Bench was set aside by a Division Bench on 27.11.2013 in **W.A. No.682/2013 (State of M.P. and others vs. Yugal Kishore Sharma**) when the matter was remanded to the learned Single Bench to consider as to whether the writ-petitioner was, in fact, a Government servant and more so, engaged for the purposes of teaching in Government Educational Institution.

07. Learned Advocate General argued that all the writ-petitioners are governed by the Rules which specify the post of Teacher and Instructor distinctively with separate eligibility and qualifications for appointment. Since the statutory Rules contemplate the post of Teacher as different from Instructor, therefore, the Instructor such as the writ-petitioner cannot be treated to be a teacher for the purposes of the Act as amended so as to grant benefit of enhanced age of superannuation. In support of such an argument, the learned counsel has referred to the documents pertaining to Government

Women Tailoring, Embroidery and Doll Making Training Centre, Bhopal, which contemplates that the winter session is from 1st August to 15th April and summer session from 16th April to 31st July. It is contended that the purpose of the Centre is to make the women self-reliant, optimum utilization of the time, saving of fabrics and financial benefits. It is pointed out that the State Government in the Department of Women & Child Development has taken a decision that the Instructors in the Tailoring Centre work as Instructors and not as Teacher and therefore, they are not entitled to extension in age.

08. The Act, as it was amended in 1984, came up for consideration before a Division Bench of this Court in a judgment reported as **1987 M.P.L.J. 500, (Mahendra Pal Singh vs. State of M.P. and others)**. The question was in respect of Instructor in the National Cadet Corps (NCC). The Division Bench quoted from Lord Herschall in Mayor, & C. of Manchester vs. McAdam (Surveyor of Taxes) (1896 AC 500) that an Institution means an undertaking formed to promote some defined purpose having in view generally the instruction or education of the public but it can well be a body called into existence to translate the purpose as conceived in the minds of the founders into a living and active principle. It was held that the meaning to word 'institution' will depend upon the context in which it is used. The reference was made to a judgment reported as **AIR 1969 SC 563 (Kamaraju Venkata Krishna Rao vs. Sub-Collector, Ongole and another**) wherein the word 'education' was defined to mean action or process of educating or of being educated. In one sense, the word

'education' may be used to describe any form of training, any manner by which physical or mental aptitude, which a man may desire to have for the purpose of his work, may be acquired. After considering a bulletin in respect of N.C.C., the Court held as under:-

> "**6**. …. In a bulletin published at the occasion of the 33rd Anniversary of the National Cadet Corps in M.P. the aims of the National Cadet Corps have been stated thus:
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> 1. *** *** ***
> 2. *** *** ***
> 3. To provide training for students with a view to developing in them officer like qualities, thus also enabling them to obtain commissions in the Armed Forces.
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> These aims and objects with which the National Cadet Corps was created and has ever since been working clearly indicate that it is not an educational institution, since the object is to develop leadership, character, comradeship and to create a force of disciplined and trained manpower and to develop office-like quality in students enrolled in different educational institutions enabling them to commission in Armed Forces. Thus, the object of the National Cadet Corps is not the advancement of education although a few like the petitioner are concerned with imparting training in different wings of the Corps."

09. We find that the judgments of the Supreme Court in **S. Azeez Basha (supra**); and **Aditanar Educational Institution (supra**) are defining the word "Educational Institution" as it appears in Aligarh Muslim University Act, 1920 or in Income Tax Act, 1961, therefore, the context in which such judgments are rendered are not relevant for the purpose of the Act. The provisions of the Act, as amended are required to be interpreted keeping in view the language, context, object and purpose of the Statute.

10. At this stage only, it would be profitable to refer to the decision of the Supreme Court in **Kamaraju Venkata Krishna Rao** (**supra**) wherein the Court has held, while examining the provisions of Andhra Inams (Abolition & Conversion into Ryotwari) Act 36 of 1956, that when the Act has not defined either the expression "charitable institution" or even "institution", the meaning of that term is to be looked into with reference to the context in which it is found. The Court held as under:-

> **"5.** Mr Narsaraju, learned Counsel for the appellant contended that even if we come to the conclusion that the Inam was granted for a charitable purpose, the object of the charity being a tank, the same cannot be considered as a charitable institution. According to him a tank cannot be considered as an institution. In support of that contention of his he relied on the dictionary meaning of the term 'institution'. According to the dictionary meaning the term 'institution' means "a body or organization of an association brought into being for the purpose of achieving some object". Oxford Dictionary defines an 'institution' as "an establishment organization or association, instituted for the promotion of some object especially one of public or general utility, religious, charitable, educational etc.". Other dictionaries define the same word as 'organised society established either by law or the authority of individuals, for promoting any object, public or social'. In Minister of National Revenue v. Trusts and Guarantee Co. Ltd. 1940 SC 138, the Privy Council observed:
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> > "It is by no means easy to give a definition of the word "institution" that will cover every use of it. Its meaning must always depend upon the context in which it is found."

11. Later, a Single Bench of this Court in a judgment reported as **2001 (2) M.P.H.T. 373 (Smt. Maya Verma vs. Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur and another**) examined the case of a Lady Extension Teacher in Jawaharlal Nehru Agriculture University. This Court found that the Lady Extension Officer does not fall under the category of Teacher in terms of Clause 32 of the University Statute; therefore, her

request for enhancement of retirement age from 60 to 62 years cannot be accepted. That was a case where the word "Teacher" was defined in Section 2(x) of M.P. Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963 to mean a person appointed or recognized by the University for the purpose of imparting instructions and/or conducting and guiding research and/or extension programmes and to include a person who may be declared by the Statutes to be Teacher. The Statute 32 of the M.P. Jawaharlal Nehru Krishi Vishwavidyalaya Statutes, 1964 described "Vishwavidyalaya Teachers" as servants of the University for imparting instructions and/or conducting and guiding research and/or extension programmes such as Professor, Associate Professor and Assistant Professor. The relevant extract read as under:-

> "**7.** It is not the case that the petitioner Lady Extension Teacher was engaged as a Teacher described in Section 2 (x) and Statute 32 in the extension activity of the University. She was merely associating with the team so engaged and merely because she was also imparting instructions in the sense that she was bringing the farmers abreast of the developments and the latest techniques in farming, it can not be said that she was engaged in imparting such instructions as a teacher. It is also not the case of the petitioner that the petitioner was ever recognised by the University as teacher for the purpose of imparting instructions in extension programmes. While it is true that the designation of the petitioner did suggest that she was a teacher, the word "teacher" as understood in common parlance must yield to the description contained in the definition and the Statute to which the petitioner does not correspond. Consequently, the claim of the petitioner deserves to be rejected."

12. Another Single Bench of this Court in a judgment rendered in **S.A.M. Ansari (supra)** was considering the case of a Weaving Master in jail. The claim of the petitioner for extension age was declined for the reason

that the jail department cannot be said to be an 'Educational Institution'. The relevant para read as under:-

> "**9**. In the present case, the petitioner was employed by the Jail Department for the purposes of imparting training to the prisoners. The Jail Department, under the circumstances, cannot be said to be an educational institution including the technical or medical education institution so that by extending the meaning of the Explanation attached to the said provision referred to hereinabove it would be applicable to the petitioner. Under the circumstances, the petitioner even though being a teacher but is not employed in the educational institution including technical or medical institution, has no right to continue till he reaches the age of superannuation of 60 years."

13. Another Division Bench of this Court in a decision rendered on 23.08.2016 in **W.A. No.402/2016 (Ashok Kumar Gupta vs. State of M.P. and others**) declined the claim of the writ-petitioner, who was appointed as Block Extension Educator in a Departmental Training Institute, for extension in age. The Court held as under:-

> "**6**. We have heard learned counsel for the parties and we find that under the explanation in question, a teacher, is classified as a Government servant by whatever designation called, who is appointed for the purpose of teaching in Government educational institute including technical or medical education institute, in accordance with the requirement of the recruitment rules. Admittedly in this case, appellant does not fulfill this criteria as laid down in the rule he was neither appointed as a teacher in any Government educational institute including technical or medical education institute and his substantive appointment in the post of Block Extension Educator and for some time he discharged duties as a health instructor/teacher in a health training institute i.e. a departmental training institute."

14. Apart from the various Single and Division Bench judgments, the learned Advocate General relies upon a Supreme Court decision reported as

(2009) 13 SCC 635 (State of Madhya Pradesh and others vs. Ramesh Chandra Bajpai), which appeal was pertaining to parity of pay claimed by Physical Training Instructor in Government Ayurvedic College with the teachers, who had been granted UGC scale of pay. The Court distinguished the earlier judgment reported as (1997) 8 SCC 350 (P.S. Ramamohana Rao vs. A.P. Agricultural University and another) and held as under:-

> "**22**. We may now notice the ratio of the decision in *P.S. Ramamohana Rao vs. A.P. Agricultural University and another (1997) 8 SCC 350*. In that case, this Court was called upon to decide whether the Physical Training Instructor in Andhra Pradesh Agricultural University was a teacher within the meaning of Section 2(n) and was entitled to continue in service up to the age of 60 years. The appellant in that case was employed as a Physical Director in Bapatla Agricultural College, which was later on transferred to Andhra Pradesh Agricultural University. The University sought to retire the appellant on completion of 58 years. The writ petition filed by him questioning the decision of the University was dismissed by the Division Bench of the High Court on the premise that Physical Director does not fall within the ambit of definition of `teacher'.
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> *** *** ***
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> **25**. We may observe that definition of `teacher' contained in Section 2(n) of the Andhra Act was an expansive one to include those persons who had not only been imparting instructions but also were conducting and carrying on research for extension programmes. It also included those who had been declared to be a teacher within the purview of the definition thereof in terms of any Statute framed by such State.
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> **26**. In our view, the aforementioned decision has been misapplied and misconstrued by the High Court. It is now well settled principle of law that a decision is an authority for what it decides and not what can logically be deduced therefrom. In Ramamohana Rao (supra), this Court, having regard to the nature of duties and functions of Physical Director, held that that post comes within the definition of

teacher as contained in Section 2(n). The proposition laid down in that case should not have been automatically extended to other case like the present one, where employees are governed by different sets of rules."

15. At this stage, it may be mentioned that in **P.S. Ramamohana Rao's case (supra)**, the provision under consideration was Section 2(n) of the Andhra Pradesh Agricultural University Act, 1963 which defines the 'Teacher' to include a Professor, Reader, Lecturer or other person appointed or recognized 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.

16. On the other hand, learned counsel for the writ-petitioner relies upon a Division Bench judgment of Gwalior Bench of this Court reported as **1988 MPLJ 196 (Maina Swamy vs. State of M.P. and others**) wherein the writ-petitioner was holding the post of Principal of Lady Health Visitors Promotee School for giving training to Lady Health Visitors and Auxiliary Nurse Midwife already in employment of the State. The Court held as under:-

> **"7A**. By "education" as also by "training", latent faculties of a man are developed, whether or not he is following an avocation. When a person who is educated is further "trained" in the same field his knowledge is thereby increased of the same subject which is also the purpose of "Education". According to Shorter Oxford English Dictionary, the word "Education" means, inter alia, the process of bringing up, the systematic instructions, school in or training given. We have no doubt that the means, methods and men employed in an Institution determine its character and not how persons come and who are the persons who are taken in the Institution to be "educated" or "trained". According to us, it

> cannot be said that some persons are receiving only "training" in an Institution merely because they have been deputed by the Government or they are in the employment of the Government; they would not cease to be students who are given education in the respective subjects in accordance with the syllabi and curricula. We have, therefore, no hesitation to hold that the Institution in which the petitioner was serving on the date of her retirement, namely, Lady Health Visitors Promotee School, which was formerly known as Public Health Orientation Training School, is a "Medical Education Institution" within the meaning of the term used in Enactments concerned, namely, Act No.35 of 1984 and 23 of 1987.
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> **8**. In so far as the scope of the "Explanation", as amended in Act No.23 of 1987 is concerned, we are satisfied that the case of the petitioner is covered by the first part of the Explanation which envisages that the person concerned must have been appointed for the purpose of teaching in the particular institution on the date when the Act had come into force. What appears on record before us is the fact that although the petitioner had been appointed as a "Principal", she had been actually teaching the subjects of Midwifery and Health Education, as averred in para 5 of the petition. In the return, this fact is not denied and what is stated only is that how a person serves at the fag-end of his service would not be determinative of his status as claimed by the petitioner. We also read again Annexure R/III above-referred which shows that the petitioner has been holding teaching posts even earlier on the admission of respondents themselves and on the relevant date, material for the application of the statutory provision, it is the admission of the respondents in Annexure R/III itself that she was holding a teaching post and that too for eight years, from June, 1979 to October, 1987."

With the aforesaid findings, the writ petition was allowed.

17. Learned counsel for the writ-petitioner also made reference to another Single Bench order passed by this Court reported as **2003 (4) M.P.H.T. 484 (Chokhelal Sahu vs. State of M.P. and others**) wherein the writ-petitioner was appointed as Physical Training Instructor and later re-

designated as Sports Officer. It was held that the Physical Director is a Teacher. The relevant extract of the decision read as under:-

> "**5**………..Further, 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 large number of indoor and outdoor games in which the students have to be trained. Therefore, he has to teach them several skills and the techniques of these games apart from the rules applicable to these games. 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. 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'. He is therefore, not liable to superannuate after completion of 58 years but is entitled to continue till he completed 60 years of service".
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> **6**. In view of the wide phraseology in the definition of 'teacher' given in the Explanation to Section 2 (1-a) of the Act, and in view of the nature of duties of a Physical Training Instructor (Sports Officer) given in the decision of the Supreme Court referred above it must be held that the Sports Officer in M.P. also comes within the definition of teacher. It is well settled that executive order of the Government such as order dated 29-5-2001 (Annexure R-l) can not run contrary to the statutory provisions in the Act of the legislature. As the Sports Officer is covered under the definition of "teacher" given in this Act he would also be entitled to the benefit of the age of superannuation raised from 60 to 62 years. Therefore, the impugned orders dated 27-6-2000 (Annexure P-l) of the respondent No. 4 and order dated 29-5-2001 (Annexure R-l) of the respondent No. 1 must be quashed. It is not in dispute that the rules applicable to Government teachers also apply to teachers of aided College."

18. With this background and conflicting judgments, we have heard learned counsel for the parties and find that the Instructors governed by the

Rules are “Teachers” for the purpose of age of superannuation to 62 years for the reasons recorded here-in-after.

19. As per the provisions of the law, the expression “Teacher” is not defined under the Act but the explanation gives the parameters as to what the legislature meant of the expression “teacher” when extending the age of Teachers to 62 years. The first principal condition is that a person has to be a Government servant irrespective of the designation called; he has to be appointed for the purposes of teaching in Government Educational Institutions including Technical or Medical Institutions. When paraphrased, the conditions to be satisfied as a “Teacher” are as under:-

(1) the person has to be a Government servant by whatever designation called;

(2) appointed for the purpose of teaching in Government Educational Institutions;

(3) Institutions should be Technical or Medical Educational Institutions;

(4) It also includes the person, who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than 20 years provided he holds a lien on a post in the concerned School/Collegiate/Technical/Medical education service.

20. Firstly, we find that the amendment in the Act so as to extend the age is a beneficial provision for a class of employees, who are teachers. The 'teacher', as per the explanation, has been given widest possible connotation - not restricted to teachers in Government schools or colleges or different ranks and status but all teachers from the lowest to the highest rank.

21. The second test is teaching in Government Educational Institutions. As per the learned Advocate General, the Government Educational institution means only those Educational Institutions, which are engaged in imparting regular educational courses and not the vocational training institutes. However, we find that the Government Educational Institutions cannot be given a restricted meaning, as is sought by the learned Advocate General inasmuch as the expression used is "Teacher engaged for the purpose of teaching including technical or medical educational institutions". There may not be any issue in respect of Medical Educational Institution but a Technical Educational Institution will receive wide connotation that will include the women training institutes or other vocational training institutes to make the enrolled candidates self-reliant, therefore, such institutes would satisfy the test of being technical institutes.

22. The rule of interpretation is that the definition given in one Statute cannot be exported for interpretation of another Statute. The judgments in **S. Azeez Basha (supra)** and **Aditanar Educational Institution (supra**) deal with the expressions "Educational Institution" or the "Education" as they appear in the different Statutes. The interpretation is in the context of each Statute as was being discussed by the Supreme Court but such interpretation either in respect of "Educational Institution" or the "Institute" cannot be extended to the word "Government Educational Institution" or the "Technical Institute" appearing in the Amending Act in question. Reference may be made to the judgment of the Supreme Court reported as **AIR 1953 SC 58 (D.N. Banerji vs. P.R. Mukherjee and others**), wherein the Court

held that though the definition may be more or less the same in two different statutes, still the objects to be achieved not only as set out in the preamble but also as gatherable from the antecedent history of the legislation may be widely different. The same words may mean one thing in one context and another in a different context. The relevant extract of the decision in **D.N. Banerji (supra)** is as under:-

> **"12.** These remarks are necessary for a proper understanding of the meaning of the terms employed by the statute. It is no doubt true that the meaning should be ascertained only from the words employed in the definitions, but the set-up and context are also relevant for ascertaining what exactly was meant to be conveyed by the terminology employed. As observed, by *Lord Atkinson in Keates* v. *Lewis Merthyr Consolidated Collieries Ltd. (1911) A.C. 641.* "In the construction of a statute it is, of course, at all times and under all circumstances permissible to have regard to the state of things existing at the time the statute was passed, and to the evils which as appears from its provisions, it was designed to remedy." If the words are capable of one meaning alone, then it must be adopted, but if they are susceptible of wider import, we have to pay regard to what the statute or the particular piece of legislation had in view. Though the definition may be more or less the same in two different statutes, still the objects to be achieved not only as set out in the preamble but also as gatherable from the antecedent history of the legislation may be widely different. The same words may mean one thing in one context and another in a different context. This is the reason why decisions on the meaning of particular words or collection of words found in other statutes are scarcely of much value when we have to deal with a specific statute of our own; they may be helpful, but cannot be taken as guides or precedents."

23. In another recent Judgment reported as **(2017) 1 SCC 554 (Bhim Singh, Maharao of Kota through Maharao Brij Raj Singh, Kota vs. Commissioner of Income Tax, Rajasthan-II, Jaipur)**, the Court held that if two statutes dealing with the same subject use different language then it is

not permissible to apply the language of one statute to other while interpreting such statutes. The relevant extract read as under:-

> "**36.** It is a settled rule of interpretation that if two statutes dealing with the same subject use different language then it is not permissible to apply the language of one statute to other while interpreting such statutes. Similarly, once the assessee is able to fulfil the conditions specified in the section for claiming exemption under the Act then provisions dealing with grant of exemption should be construed liberally because the exemptions are for the benefit of the assessee."

24. The another well settled principle of interpretation is that the dictionary meaning and the common parlance test can also be adopted and not the scientific meaning as held in a judgment reported as **(2007) 7 SCC 242 (Trutuf Safety Glass Industries vs. Commissioner of Sales Tax, U.P.)**, wherein the Supreme Court held that while interpreting the entry for the purpose of taxation recourse should not be made to the scientific meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. This is what is known as "common parlance test".

25. The Privy Council in its judgment reported as **1896 AC 500 (Mayor, & C. of Manchester vs. McAdam {Surveyor of Taxes})** was examining the levy of Income Tax on a public library established under the Public Libraries Act, 1892. The Income Tax was not chargeable on any building, the property of any literary or scientific institution used solely for the purpose of such institution. In the said case, the majority view was recorded by Lord Herschell, which read, thus:

> "It may be well to consider, first, what is the meaning of the word "institutions" as used in the section. It is a word employed to express several different ideas. It is sometimes used in a sense in which the "institution" cannot be said to consist of any persons, or body of persons, who could, strictly speaking, own property. The essential idea conveyed by it in connection with such adjectives as "literary" and "scientific" is often no more than a system, scheme or arrangement, by which literature or science is promoted without reference to the persons with whom the management may rest, or in whom the property appropriated for these purposes may be vested, save in so far as these may be regarded as a part of such system, scheme, or arrangement. That is certainly a well-recognized meaning of the word. One of the definitions contained in the Imperial Dictionary is as follows: "A system, plan, or society, established either by law, or by the authority of individuals, for promoting any object, public or social." An illustration of this use is to be found in the Libraries Act itself."

In a separate, but, concurring judgment, Lord Macnaghten expressed the view as under:-

> "It is a little difficult to define the meaning of the term "institution" in the modern acceptation of the word. It means, I suppose, an undertaking formed to promote some defined purpose having in view generally the instruction or education of the public. It is the body (so to speak) called into existence to translate the purpose as conceived in the mind of the founders into a living and active principle. Sometimes the word is used to denote merely the local habitation or the headquarters of the institution. Sometimes it comprehends everything that goes to make up the institution – everything belonging to the undertaking in connection with the purpose which informs and animates the whole."

26. Though in the aforesaid judgment, the word "institution" was explained as it appears in the Income Tax Act, 1842 but the interpretation given to the word "institution" is nearest to the object of the Act in question.

27. In a judgment reported as **AIR 1959 SC 459 (Sri Ram Ram Narain Medhi and others v. State of Bombay)**, while dealing with the landlord and tenant legislation, the Supreme Court held that the legislation should not be construed in a narrow and pedantic sense but it should be given a large and liberal interpretation. The Court held as under:-

> "**10**. All these petitions followed a common pattern and the main grounds of attack were: that the State Legislature was not competent to pass the said Act, the topic of legislation not being covered by any 'entry in the State List; that the said Act was beyond the ambit of Art. 31-A of the Constitution and was therefore vulnerable as infringing the fundamental rights enshrined in Arts. 14, 19 and 31 thereof; that the provisions of the said Act in fact infringed the fundamental rights of the petitioners conferred upon them by Arts. 14, 19 and 31 of the Constitution; that the said Act was a piece of colourable legislation and in any event a part of the provisions thereof suffered from the vice of excessive delegation of legislative power. The answer of the State was that the impugned Act was covered by Entry No. 18 in List II of the Seventh Schedule to the Constitution, that it was a piece of legislation for the extinguishment or modification of rights in relation to estates within the definition thereof in Art. 31-A of the Constitution and that therefore it was not open to challenge under Arts. 14, 19 and 31 thereof and that it was neither a piece of colourable legislation nor did any part thereof come within the mischief of excessive delegation.
>
> **11**. As to the legislative competence of the State Legislature to pass the impugned Act the question lies within a very narrow compass. As already stated, the impugned Act was a further measure of agrarian reform enacted with a view to further amend the 1948 Act and the object of the enactment was to bring about such distribution of the ownership and, control of agricultural lands as best to subserve the common good. This object was sought to be achieved by fixing ceiling areas of lands which could be held by a person and by prescribing what was an economic holding. It sought to equitably distribute the lands between the landholders and the tenants and except in those cases where the landholder wanted the land for cultivating the same personally for which due provision was made in the Act, transferred by

way of compulsory purchase all the other lands to tenants in possession of the same with effect from April 1, 1957, which was called the “tillers day". Provision 'Was also made for disposal of balance of lands after purchase by tenants and the basic idea underlying the provisions of the impugned Act was to prevent the concentration of agricultural lands in the hands of landholders to the common detriment. The tiller or the cultivator was brought into direct contact with the State eliminating thereby the landholders who were in the position of intermediaries. The enactment thus affected the relation between landlord and tenant, provided for the transfer and-alienation of agricultural lands, aimed at land improvement and was broadly stated a legislation in regard to the rights in or over land:-categories specifically referred to in Entry 18 in List II of the Seventh Schedule to the Constitution, which specifies the head of legislation as "land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization ".

28. In another judgment reported as **AIR 1962 SC 547 (Magiti Sasamal vs. Pandab Bissoi and others**) the Supreme Court held that having regard to beneficial object which the legislature had in view, it should receive a liberal interpretation. The relevant excerpt from the said decision is quoted as under:-

“**8**. It is true that having regard to the beneficent object which the Legislature had in view in passing the Act its material provisions should be liberally construed. The Legislature intends that the 'disputes contemplated by the said material provisions should be tried not by ordinary civil courts but by tribunals specially designated by it, and so in dealing with the scope and effect of the jurisdiction of such tribunals the relevant words used in the section should receive not a narrow but a liberal construction.”

29. Recently, in a judgment reported as **2014 (5) SC 189 (National Insurance Company Ltd. and another vs. Kripal Singh)** examining the

pension scheme of an Insurance Company it was held by the Supreme Court that the expression "retirement" should not only apply to cases which fall within para 30 of the scheme but also a case falling under special voluntary retirement scheme. The Court held as under:-

> "**10**. The only impediment in adopting that interpretation lies in the use of the word "*retirement*" in Para 14 of the Pension *Scheme*, 1995. A restricted meaning to that expression may mean that Para 14 provides only for retirements in terms of Paras (2)(t)(i) to (iii) which includes *voluntary retirement* in accordance with the provisions contained in Para 30 of the Pension *Scheme*. There is, however, no reason why the expression "*retirement*" should receive such a restricted meaning especially when the context in which that expression is being examined by us would justify a more liberal interpretation; not only because the provision for payment of pension is a beneficial provision which ought to be interpreted more liberally to favour grant rather than refusal of the benefit but also because the *Voluntary Retirement Scheme* itself was intended to reduce surplus manpower by encouraging, if not alluring employees to opt for *retirement* by offering them benefits like ex gratia payment and pension not otherwise admissible to the employees in the ordinary course. We are, therefore, inclined to hold that the expression "*retirement*" appearing in Para 14 of the Pension *Scheme*, 1995 should not only apply to cases which fall under Para 30 of the said *Scheme* but also to a case falling under the *Special Voluntary Retirement Scheme* of 2004. So interpreted, those opting for *voluntary retirement* under the said SVRS of 2004 would also qualify for payment of pension as they had put in the qualifying service of ten years stipulated under Para 14 of the Pension *Scheme*, 1995.

30. A Division Bench of this Court in **Mahendra Pal Singh (supra)** has quoted Lord Herschall that the word 'education' is not restricted to traditional class room teaching i.e. from nursery till degree or postgraduate degree but also includes the vocational training education, which again helps a candidate to improve mental aptitude for the purpose of work. To that

extent, we approve the interpretation of the Division Bench of this Court, which read as under:-

> "**3**. It is somewhat difficult to define the term 'Institution' in the modern acceptation of the word. Lord Herschall in his speech in Manchester Corporation vs. Acadam, 1896 AC 500 relying upon the definition in Imperial Dictionary described this term to mean an undertaking formed to promote some defined purpose having in view generally the instruction or education of the public. It can well be a body called into existence to translate the purpose as conceived in the minds of the founders into a living and active principle. It may be an organisation, establishment, foundation, society or the like devoted to the promotion of a particular object specially one of a public, educational or charitable character. The meaning to this word 'institution' will depend upon the context in which it is used. Thus, even a tank may be a charitable Institution when there is dedication in respect of that tank (See Kamaraju Venkata Krishna Rao vs. Sub-Collector, Ongole and another, AIR 1969 SC 563) and 'education' may mean the action or process of educating or of being educated. In one sense this word 'education' may be used to describe any form of training, any manner by which physical or mental aptitude, which a man may desire to have for the purpose of his work, may be acquired. (See Chartered Insurance Institute vs. London Corporation, 1957 2 All. ER 638). The term 'education' as used in Entry No. 11 of List II of the Seventh Schedule of the Constitution of India, was held by the High Court of Bombay in Ramchand vs. Malkapur Municipality AIR 1970 Bom. 154, to mean teaching or training of the persons in general other than teaching or training for a business or profession. Thus, an educational Institution would be an Organisation or an establishment constituted would be an organization or an establishment constituted to promote education both technical and non-technical and may also include physical education."

31. However, the view taken by the Division in **Mahendra Pal Singh (supra)** that the training of students in National Cadet Corps for developing officer-like quality is not education under the Act is not the correct

interpretation. The Bench rightly found that the object of the National Cadet Corps is to develop leadership, character, comradeship and to create a force of disciplined and trained manpower and to develop officer-like quality in students enrolled in different educational institutions enabling them to commission in the Armed Forces but the conclusion drawn "is not the advancement of education" does not merit acceptance. The factors noticed by the learned Division Bench will make the Instructors in the National Cadet Corps as Teacher, as what he is doing as Instructor is what a teacher is expected to do in a regular class-room teaching. Therefore, the finding that the object of the National Cadet Corps is not advancement of education is not tenable.

32. In absence of any meaning to the word "Education" or "Educational Institution" in the Statute, one may have to revert to the dictionary meaning of such words. In Oxford Advanced Learner's Dictionary (New 8th Edition 2010), the meaning of words "Education", "Institution" and "Institute" is given as under:-

> "**education** – **1**. a process of teaching, training and learning, especially in schools or colleges, to improve knowledge and develop skills: *primary/elementary education – secondary education – further/higher/post-secondary education – students in full-time education – adult education classes – a college/university education – the state education system*.........**2**. a particular kind of teaching or training; *health education*......**3**. *(also Education :* the institutions or people involved in teaching and training: *the Education Department – the Department of Health, Education and Welfare*.....**4**. the subject of study that deals with how to teach*: a College of Education – a Bachelor of Education degree...*"

> **institution** – **1**. a large important organization that has a particular purpose, for example, a university or bank; *an educational/financial, etc. institution.....* **2.** a building where people with special needs are taken care of, for example because they are old or mentally ill; *a mental institution.....”*

> “**institute**– an organization that has a particular purpose, especially one that is connected with education or a particular profession; the building used by this organization; a *research institute – the Institute of Chartered Accountants – institutes of higher education. ”*

33. The meaning of the words “education”, “institution” and “institute” as find place in Collins Cobuild English Dictionary New Edition (Reprinted 1997), read as under:-

> **“education. 1. Education** involves teaching people various subjects, usually at a school or college, or being taught.
>
> **2**. **Education** of a particular kind involves teaching the public about a particular issue....... *better health education*.
>
> **institute 1**. An **institute** is an organization set up to do a particular type of work, especially research or teaching. You can also use *institute* to refer to the building the organization occupies....*the National Cancer Institute.... an elite research institute devoted to computer software......*
>
> **institution. 1.** An **institution** is a large important organization such as a university, church, or bank. *Class size varies from one type of institution to another...*
>
> **2**. An **institution** is a building where certain people are looked after, for example people who are mentally ill or children who have no parents.”

34. In Black's Law Dictionary (Tenth Edition) the term “educational institution” is defined as under:-

> “**educational institution**. (1842) **1.** A school, seminary, college, university, or other educational facility, though not necessarily a chartered institution. **2.** As used in a zoning ordinance, all buildings and grounds necessary to accomplish the full scope of educational

instruction, including those things essential to mental, moral, and physical development.”

35. In P. Ramanatha Aiyar's Advanced Law Lexicon (3rd Edition Reprint 2007) the words “education” and “institution” have been elaborated as under:-

> “**Education** is the bringing up; the process of developing and training the powers and capabilities of human beings. In its broadest sense the word comprehends not merely the instruction received at school, or college but the whole course of training moral, intellectual and physical; is not limited to the ordinary instruction of the child in the pursuits of literature. It also comprehends a proper attention to the moral and religious sentiments of the chila. And it is sometimes used as synonymous with 'learning'.
>
> **Institution**. The word 'institution', both in legal and colloquial use, admits of application to physical things. One of its meaning, as defined in Webster's Dictionary is 'an establishment, especially of public character, or affecting a community.' The term 'institution' is sometimes use as descriptive of an establishment or place where the business or operations of a society or association is carried on. At other times it is used to designate the organised body.'
>
> The word 'institution' properly means an organisation organised or established for some specific purpose, though it is sometimes used in statutes and in common parlance in the sense of the building or establishment in which the business of such a society is carried on.”

36. Therefore, in view of the dictionary meaning of the word “educational institution”, and when the object of National Cadet Corps is to develop leadership, character, comradeship and to create a force of disciplined and trained manpower and to develop officer-like quality in students, therefore, we find that the training of the students by the Instructors in the NCC and in weaving would be a “Teacher” for the purpose of the Act.

37. The judgment in **Smt. Maya Verma's case (supra**) was dealing with the expression "Teacher" as it appears in M.P. Jawaharlal Nehru Krishi Vishwavidyalaya Act, 1963 (in short "the 1963 Act"). The teacher as defined in the said Act does not necessarily exclude the teachers as defined in the Act as the purport and object of the two Statutes is different. The statute under consideration in **Smt**. **Maya Verma's case (supra**) was a Statute in respect of recruitment of teachers and their service conditions whereas the Act specifically deals with only one aspect i.e. the age of superannuation, therefore, the 1963 Act is a general Statute and the Act is a special Statute which will have preference over the provisions of the 1963 Act. Thus, the judgment in **Smt. Maya Verma (supra)** is not helpful to determine the age of superannuation of the teachers.

38. The Single Bench decision in **S.A.M. Ansari**'s case **(supra)** is a case of Weaving Instructor employed in a jail. We find that the said judgment is not applicable in the facts of the present case because the jail cannot be treated to be a Technical Educational Institution, therefore, the benefit of extension of age cannot be granted to the Weaving Instructor employed in the jail.

39. Similarly, in a Division Bench judgment in **Ashok Kumar Gupta**'s case (**supra**) the finding recorded is that he was teaching in a departmental training institute. The departmental training institute is also an educational institute and therefore, such person appointed in a training institute of a technical nature would be entitled to benefit of extension of age of

superannuation. Therefore, even the judgment in **Ashok Kumar Gupta**'s case **(supra)** is not a correctly decided principle of law.

40. In view of the above, we do not approve the judgments passed by Single Bench of this Court in **S.A.M. Ansari (supra)** and **Smt. Maya Verma (supra)** and Division Bench decision in **Ashok Kumar Gupta (supra)** and a part of Division Bench judgment in **Mahendra Pal Singh** (**supra**). However, we approve the meaning assigned to words "teacher", "training" and "education" in **Maina Swamy**'s case (**supra**). We also approve the Single Bench judgments of this Court in **W.P. No.2289/2003 (Annapurna Prasad Shukla vs. State of M.P. and others**) passed on 07.11.2003 and **Chokhelal Sahu (supra)**.

41. In view of the above, we hold that classification in the recruitment Rules is not determinative of the fact: whether a Government servant is a Teacher or not – as the meaning assigned to Teacher in the State Act has to be preferred over the classification of Teacher in the recruitment Rules. The Amending Act has given wide meaning to the expression "Teacher", which includes the "Teachers irrespective of the designation and appointed in a Government Technical and Medical Institutions". Therefore, the "Instructors" engaged for imparting training to women in the Tailoring Centre work under the Department of Women & Child Development are entitled to extension in age up to the age of 62 years being teachers as mentioned in the amending Act.

42. In respect of the second question, it is held that the Training Centres and the Vocational Training Centres of the State Government are Educational Institutions for extending the benefit of age of superannuation to a person imparting training as the Instructor is a Teacher for the purpose of the Act, which has been given very wide definition.

43. Now, the question arises is that what relief should be granted to the teachers, who stand superannuated on attaining the age of superannuation of 60 years prior to this Judgment. The provisions of the Act are to extend the age of superannuation of the teachers so that services of experienced work-force of the teachers are utilized for constructive work of imparting education for another period of two years. The provision is not meant for a personal benefit of the teachers but for larger public good that the experienced teachers should impart education for another period of two years. In view of the said fact, we hold that the teachers, who have attained the age of 62 years prior to the order of this Court passed today, shall not be entitled to any consequential benefit of pay and allowances but the teachers, who have not attained the age of 62 years, shall be called upon to perform their duties up-to the age of 62 years.

44. Having answered the question of law, the matter be placed before the Bench as per Roster for final disposal.

(HEMANT GUPTA)	**(VIJAY KUMAR SHUKLA)**	**(SUBODH ABHYANKAR)**
CHIEF JUSTICE	JUDGE	JUDGE

S/