



2025 INSC 1285

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.11897/2025

RITU GARG & ORS.

APPELLANTS

VERSUS

BOARD OF GOVERNORS BOG & ORS.

RESPONDENTS

WITH

CIVIL APPEAL NO.11898/2025

POONAM JINDAL

APPELLANT

VERSUS

HANUMAN DEVIDAS CHALAK & ORS.

RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

1. These two appeals take exception to the common judgment and order dated 31st May, 2024¹ passed by a Division Bench of the High Court of Punjab and Haryana at Chandigarh² while disposing of two writ petitions³. While taking such exception, the appellants seek to discredit the portion of the impugned order which adversely affects their interest.
2. We propose to refer to the impugned order in some detail after completing the factual narration.

¹ impugned order

² High Court

³ CWP No.15972 of 2023 (O&M) and CWP No.354 of 2024 (O&M)

3. The facts, which are common to both the appeals, are these.
4. The appellants are Assistant Professors employed by the National Institute of Technology, Kurukshetra⁴ since 2008 in different disciplines. They aspired for appointment on the immediate higher post of "Associate Professor", a selection post. However, since the appellants did not qualify the eligibility criteria of having Academic Grade Pay of Rs.8,000/- for at least three years at the level of Assistant Professor in terms of the relevant recruitment rules, they were ineligible to even enter the zone of consideration for selection.
5. At this stage, on 06th October, 2017, a letter was issued by the Department of Higher Education, Ministry of Human Resource Development, Government of India⁵. It was sought to be conveyed that based on the recommendations of the Anomaly Committee, it had *inter alia* been decided to grant one-time relaxation to those Assistant Professors who did not have Academic Grade Pay of Rs.8,000/-. By an executive instruction, the recruitment rules were sought to be amended by waiving the requirement of Academic Grade Pay, referred to above. Thus, in terms of such letter, those Assistant Professors employed in the National Institutes of Technology⁶ across the country, who had put in more than six years of service after acquiring Ph.D. degrees at the level of

⁴ NIT, Kurukshetra

⁵ GoI

⁶ NITs

Assistant Professor could be considered for selection and consequent appointment on the post of Associate Professor.

6. We are informed that there are in all 31 NITs across the country and the executive instruction contained in the said letter dated 06th October, 2017 giving one-time relaxation was given effect for Assistant Professors in all the other NITs except the NIT, Kurukshetra and Dr. B.R. Ambedkar National Institute of Technology, Jalandhar⁷. This is because of intervening litigation which prevented the one-time relaxation contemplated thereby from being implemented, as noticed hereafter.
7. An advertisement bearing no.3/18 dated 10th January, 2018 was issued by the NIT, Kurukshetra following the said letter dated 06th October, 2017. In pursuance thereof, the appellants offered their candidature.
8. It is the case of the appellants that they were selected and recommended for appointment on the post of "Associate Professor" by a resolution dated 27th November, 2018 and were awaiting appointment as Associate Professors.
9. Meanwhile, writ proceedings had been initiated before the High Court by a certain section of Assistant Professors, junior to the appellants as far as length of service is concerned. They did not succeed before a Single Judge of the High Court. *Vide* an order dated 17th September, 2018, the NIT, Kurukshetra was allowed to complete the selection process.

⁷ NIT, Jalandhar

10. The order dated 17th September, 2018 was carried in an intra-court appeal. A Division Bench of the High Court by a judgment and order dated 05th December, 2019 (while setting aside the judgment and order of the Single Judge) held that the letter dated 06th October, 2017 was contrary to the First Statutes of the NIT, Kurukshetra framed under the National Institutes of Technology Act, 2007 and hence no benefit of the instruction contained in such letter could enure to the benefit of any Assistant Professor employed in the NIT, Kurukshetra.
11. The said judgment and order of the Division Bench of the High Court was challenged in a special leave petition⁸ before this Court. A coordinate Bench by its order dated 17th January, 2022 dismissed the special leave petition.
12. The events that unfolded after dismissal of the special leave petition by this Court form the trigger for these appellate proceedings and have substantial relevance for a decision on these appeals.
13. The Ministry of Education, Department of Higher Education, Technical Section-III (NITs Division), GoI moved a proposal before the Visitor (Her Excellency, the President of India) for amendment in the statutes of, *inter alia*, of the NIT, Kurukshetra as per decision of the Council of the National Institutes of Technology, Science, Education and Research. A summary was prepared for the Visitor by the relevant department, with the

⁸ SLP (C) Diary No.21233/2020

recommendation of the Hon'ble Education Minister. Relevant portions of the summary note read as follows: -

"3.10 The one-time relaxation was only a one-time measure to address and remove the stagnation of existing faculty at a particular level without affecting the career prospects of other facilities joining NITs system. Once the recruitment drive with one-time relaxation is completed, it has nothing to do with the RRs notified on 24th July, 2017 for future recruitments. As such, it wasn't felt appropriate to make these one-time relaxations part of the Statutes of NITs & IEST, Shibpur especially considering the amended provisions under sub-statute (3) of Statute 23 of the Statutes of NITs and IEST-Shibpur.

3.11 However, based on the facts, decisions of the Council of NITSER and directions of the Hon'ble High Court, it has become necessary to incorporate the clarifications vis-à-vis one-time relaxations under Schedule 'E' of the Statutes of NITs, IEST-Shibpur and NIT-Andhra Pradesh retrospectively by way of suitable amendments. The Council of NITSER in its 12th meeting has already approved to carry out necessary amendments and further authorized Ministry of Education to carry out necessary amendments.

3.12 In accordance with provisions under Section 26 (2) of the Act, the Board of Governors of all the 31 NITs and IEST, Shibpur have conveyed the approval of their Board in response to our communication dated 27th October, 2020 for carrying out necessary amendments in the Statutes. Having received the consent of the respective Board of Governors as required under Section 26 (2) of the Act, the draft notifications for carrying out amendments in the Statutes of NITs, IEST-Shibpur and NIT-Andhra Pradesh were referred to the Legislative Department of the Ministry of Law and Justice for vetting of three draft Notifications.

3.17 Thus, the present proposal is moved to amend the Statutes of 30 NITs (23.04.2009 & 24.07.2017), IEST-Shibpur (24.03.2017 & 24.07.2017) and NIT-Andhra Pradesh (02.08.2017) to effect following:-

- (i) ***
- (ii) ***
- (iii) ***
- (iv) ***
- (v) ***
- (vi) ***
- (vii) ***
- (viii) ***

(ix) Incorporation of one-time relaxations or measures conveyed on 06.10.2017 and 17.11.2017 for the then stagnated and eligible faculty of NITs & IEST-Shibpur with provision that these one-time relaxations have no validity for future recruitments as recruitments of existing stagnated

and eligible faculties have already been made (except in case of NIT-Kurukshetra because of the facts mentioned in para 3.9 above) in accordance with the one-time relaxations and these measures stand exhausted after the first round of recruitments initiated after 06.10.2017 and 17.11.2017, respectively.”

14. The recommendation of the Hon’ble Education Minister, which followed, reads as under: -

- “4.1 The Notifications containing amendments in the statutes of 30 NITs, IEST-Shibpur and NIT-Andhra Pradesh, respectively, as vetted by the Legislative Department of Ministry of Law and Justice, were placed before the Hon’ble Education Minister for referring same to the President’s Secretariat for soliciting kind approval/assent of the Hon’ble President of India in her capacity as the Visitor of NITs in accordance with provisions under Section 26(3) and 26(4) of the NITSER Act, 2007.
- 4.2 Hon’ble Education Minister, also in his capacity as the Chairperson of the Council of NITSER, has recommended placing the amendments contained in the Notifications before the Hon’ble Visitor of NITs & IEST-Shibpur for approval. The recommendations of the Hon’ble Education Minister are at Annexure-XVI.
- 4.3 The notifications for notifying the amendments in the Statutes of 30 NITs, IEST-Shibpur and NIT-Andhra Pradesh are placed at Annexure-XVII, Annexure-XVIII and Annexure-XIX, respectively.”

15. By a letter dated 04th May, 2023, the Secretariat of Her Excellency, the President of India informed the Ministry of Education as follows: -

- “2. The Hon’ble President of India, in her capacity as the Visitor of National Institute of Technology and Indian Institute of Engineering Science and Technology, Shibpur is pleased to approve the proposal contained in para 4 of the summary note.”

16. Upon the proposal for amendment being approved by the Visitor of the NITs, *inter alia*, the notification dated 14th June, 2023 containing the First

Statutes of the National Institutes of Technology (Amendment) Statutes, 2023⁹ was published in the official gazette on 30th June, 2023.

17. Section 1(2) of the 2023 statutes ordained that they shall apply to the NIT, Kurukshetra and come into force on the date of its publication in the official gazette. Apart from other amendments in the First Statutes which were incorporated, special mention needs to be made to Statute 9 since it falls for our consideration.

18. Statute 9 of the 2023 statutes reads as follows: -

“(9) The one-time relaxation or measures for the then stagnated and eligible faculty of the National Institute of Technology, Kurukshetra shall be as per the relaxations issued with the approval of the council *vide* communications dated the 6th October, 2017 and 17th November, 2017:

Provided that one-time relaxation or measures contained in the communications dated the 6th October, 2017 and 17th November, 2017 shall have no validity and stand exhausted after the first round of recruitments initiated after issuance of those one-time relaxations or measures and shall not have any validity for subsequent rounds of recruitment of the faculty in the National Institute of Technology, Kurukshetra.”

(emphasis ours)

19. While the NIT, Kurukshetra was in the process of considering the appellants in terms of the recommendation dated 27th November, 2018, a second round of litigation came to be initiated before the High Court with institution of the writ petitions, from which these appeals arise.

20. The Division Bench by the impugned order, while allowing the writ petitions, held that:

“26. ... the amendment has been brought into force from the date it was notified in the gazette as per Section 1(3). Thus, the

⁹ 2023 Statutes

qualification for promotion and experience have been substituted with effect from the date of the gazette notification was issued and would apply prospectively. Thus, Section 5 Clause (d) and (f) making amendments in Schedule-E would have to be treated and considered prospectively.”

Ultimately, the Division Bench held as follows:

“34. Applying the aforesaid law to the facts of the present case, it is apparent that the selection which were conducted under advertisement no. 3/2018 cannot be given approval by the new amendments made in the Statutes. Even the counsel for the respondent-institutes have stated that the amendments would be prospective, therefore, now they would be free to issue new advertisement in accordance with the amendments granting due relaxation in the Schedule for the purpose of selection for the post of Associate Professor and Professor.

35. In other words, the authorities would be free to conduct afresh exercise by inviting applications of all eligible candidates in terms of the new amendments made vide notification dated 30.06.2023 for the post of Associate Professor and Professor. All the persons who are eligible for applying, would be considered. The petitioners and the respondents would be, therefore, entitled to be considered accordingly as per their work experience and other educational qualifications.

36. All the stake holders will also be entitled to be considered afresh for which now the respondent-Institute shall take steps, proceed and conclude the exercise within a period of four months from today. The advertisements issued by the respondent-institute would, accordingly, be modified/corrected and applied. The stay order passed by the Court dated 31.07.2023 stands vacated.”

21. Notice was initially issued to the GoI on 29th November, 2024 and to the respondents 1 to 3 on 16th December, 2024. GoI was specifically directed to place on record by way of an affidavit the summary note and the recommendations of the Minister for this Court’s consideration.
22. Pursuant to such order, the GoI filed an additional affidavit placing on record the requisite note and recommendation.
23. Leave was granted on 15th September, 2025 and the appeals set down for hearing on 15th October, 2025.

24. Certain applications for intervention came to be filed, which were allowed. I.A. No.253789/2025 & I.A. D. No.226749/2025 are also allowed by permitting the applicants to intervene.
25. We have heard learned senior counsel for the appellants, learned Additional Solicitor General for the GoI, as well as learned counsel for the NIT, Kurukshetra, the writ petitioners before the High Court and the intervenors.
26. In the writ petitions before the High Court, challenge was laid to the amendments that were incorporated in the First Statutes through the 2023 Statutes concerning Statute 9. It was the contention of the writ petitioners that *"there was no occasion to issue the notification which has been done only to overturn the judgment of this Court upheld by the Supreme Court"* which amounts to overreaching the process of the Courts and *"the rule which was amended, has been given retrospective effect"* to benefit *"those who have been selected ... under the advertisement no.3/2018"* which otherwise they were not entitled to.
27. We must begin our analysis bearing in mind four important propositions of law.
28. First, is the guidance provided by Hon'ble O. Chinappa Reddy, J. in ***RBI v. Peerless General Finance & Investment Co. Ltd.***¹⁰ on how a statute is to be read and understood. The relevant passage reads:

"**33.** Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the

¹⁰ (1987) 1 SCC 424

texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. ...”

29. Three key concepts flow from the above passage. Holistic understanding is the first in terms whereof the statute has to be read as a whole instead of focusing on isolated parts. Secondly, the emphasis is on contextual understanding requiring the circumstances and objectives which triggered the statute’s enactment to be taken into account. Thirdly, the rule of purposive interpretation is stressed: the statute has to be interpreted in a manner that advances its intended purpose and objectives.
30. Drawing guidance from the above, we are minded to hold that the most effective way to interpret the 2023 Statutes is to align its context with the purpose. To achieve this, it is crucial to understand the objective behind Statute 9 being introduced and read the 2023 Statutes as a cohesive whole.
31. The second proposition is that according to the principles of statutory construction, a statute which is explanatory or clarificatory of the earlier

enactment is usually held to be retrospective. One may profitably refer to the decision in ***S.S. Grewal v. State of Punjab***¹¹ in this context.

32. The third proposition of law that is well-settled is that though the legislature has no power to sit over the judgment of a Court or usurp judicial power, but, subject to the competence to make law, it has the power to remove the basis which led to the Court's decision. In the decision of this Court in ***State of Kerala v. Peoples Union for Civil Liberties***¹², one finds the following instructive passage:

"68. Where a new Act is enacted removing the very basis on which the High Court made a preceding Act invalid, it matters not whether the same is not termed as a validating statute or not. In the present case, however, in our opinion, such a question does not arise as the 1975 Act was not declared to be invalid. In *Bakhtawar Trust v. M.D. Narayan* [(2003) 5 SCC 298] this Court held: (SCC p. 312, para 26)

'26. ... In order to validate an executive action or any provision of a statute, it is not sufficient for the legislature to declare that a judicial pronouncement given by a court of law would not be binding, as the legislature does not possess that power. A decision of a court of law has a binding effect unless the very basis upon which it is given is so altered that the said decision would not have been given in the changed circumstances.'

The reason is not far to seek. The legislature cannot overrule a judgment but it can remove the basis on which the judgment has been rendered."

33. Finally, the proposition of law laid down in ***Union of India v. M. Bhaskar***¹³ is that grant of notional promotion to a post with retrospective effect cannot mean gaining experience from that day, because to gain

¹¹ 1993 Supp (3) SCC 234

¹² (2009) 8 SCC 46

¹³ (1996) 4 SCC 416

experience one has to work. Notional promotions are given to take care of some injustice but a person so promoted cannot gain experience from the date of notional promotion; it has to be from the date of actual promotion.

34. The same view has been reiterated in a decision of this Court of recent origin in ***Ravi Oraon v. The State of Jharkhand***¹⁴.
35. Having noted the propositions of law having a vital effect on the decision to be rendered on these appeals, we now proceed with our analysis.
36. In our considered opinion, the High Court correctly spurned the challenge to the validity of Statute 9; however, it erred in holding that owing to Statute 1(3) of the 2023 Statutes making it (the amended Statutes) operative from the date of its publication in the official gazette, a fresh exercise had to be conducted by inviting applications and granting opportunity to all eligible candidates in terms of the amended law. There cannot be any quarrel with what Statute 1(3) ordains; but having regard to the specific language employed in Statute 9, which has been highlighted above, it cannot be gainsaid that the same had the effect of clarifying/explaining that the recruitment drive initiated by the NIT, Kurukshetra immediately after issuance of the letter dated 6th October, 2017, which granted a one-time relaxation for its stagnating Assistant Professors, stands validated with effect from 30th June, 2023. Further, what Statute 9, with effect from the date of publication of the 2023

¹⁴ 2025 SCC OnLine SC 2192

Statutes in the official gazette, permitted was to enable the recruitment drive initiated pursuant to the advertisement bearing no. 03/2018 to be taken to its logical conclusion together with clear stipulations that thereafter, i.e., after such recruitment drive is concluded, the benefit conferred by Statute 9 would stand exhausted and such relaxation will not have any validity for any subsequent recruitment drive. The whole purpose of moving the proposal for amendments by the GoI was to give effect to the idea expressed in the letter dated 6th October, 2017 for the NIT, Kurukshetra which, for good reasons, had been interdicted by the High Court in the first round of litigation, whereafter the situation was sought to be remedied by having the First Statutes amended in a manner known to law by introducing Statute 9 in the 2023 Statutes. Apart from the settled propositions of law noticed above, it is equally well-known that if a judgment of a Court holds a particular action of the executive to be bad and illegal because such action suffers from certain procedural defect(s), the legislature/executive, as the case may be, by an amendment in the law/rules, may cure the defect on which the judicial order was premised and such curing would not amount to overreaching the judgment of the Court. As would also be evident from the summary note referred to above, the amendment incorporated in the First Statutes by introducing Statute 9 was clarificatory in nature to extend benefits to the Assistant Professors of the NIT, Kurukshetra retrospectively, at par with the Assistant Professors of all the other NITs in the country, based on

the purpose which the instruction contained in the letter dated 6th October, 2017 sought to achieve. Such purpose, we reiterate, was intended to give a one-time relaxation through amendment of the relevant statutes in the wake of the previous judgment and order of the Division Bench of the High Court which had interdicted specifically on the ground that a statute was sought to be supplanted, and not supplemented, by an executive instruction: an exercise impermissible in law. Such a clarification/explanation given by Statute 9, for a limited purpose, was well-nigh permissible and had to be read as part of the First Statutes. The impugned order, therefore, nullified the purpose for which Statute 9 was introduced and proceeded to extend benefits even to those Assistant Professors who might not have been qualified even to participate in the process in terms of the advertisement bearing no.03/2018 and thereby placing unequals and equals at par.

37. Having regard to the above, our interference is called for but to the limited extent as indicated hereafter.
38. Bearing in mind the provisions contained in Statute 9 of the 2023 Statutes, we direct that such of the appellants as well as the intervenors who might have qualified in the selection process pursuant to the recruitment drive initiated *vide* the advertisement bearing no. 03/2018 and were recommended for appointment on the post of Associate Professor on 27th November, 2018 shall be considered for such appointment by the Board of Governors of the NIT, Kurukshetra and upon

being found suitable, they will be offered notional appointment with effect from any date post 27th November, 2018, as the Board may decide on facts and in the circumstances. We leave the issue of the date of notional appointment for a decision by the Board owing to conflicting claims being raised before us with regard to such date.

39. We make it clear that those appellants/intervenors who are ultimately appointed in terms of this order as Associate Professor shall, however, not be entitled to claim any arrear financial benefit as well as teaching experience from the date of such notional appointment for appointment/promotion to any higher post or other benefit. This is for the simple reason that such appointment did not result in actual experience being gained by them while working on the post of Associate Professor.
40. Notwithstanding what we have observed above, the appellants shall be treated as Associate Professors from the dates of their notional appointment for the purpose of continuity in services to receive terminal benefits.
41. The Board of Governors of NIT, Kurukshetra is directed to take an appropriate decision in terms of this order within a period of a month from date.
42. It is made abundantly clear that in terms of Statute 9 of the 2023 Statutes, the one-time relaxation as conceived thereby would stand exhausted once consideration is made by the Board of Governors in terms of this order.

43. The impugned order of the Division Bench of the High Court is modified to the aforesaid extent.
44. The appeals stand disposed of on the aforesaid terms.
45. Since we have confined our discussion to the grievances voiced by the Assistant Professors of the NIT, Kurukshetra and there being no appeal against the impugned order by any faculty member presently serving in the NIT, Jalandhar, this order shall have no effect insofar as such institute is concerned.
46. Pending application(s), if any, stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(AUGUSTINE GEORGE MASIH)

**NEW DELHI;
OCTOBER 29, 2025.**