

A UNIVERSITY GRANTS COMMISSION ETC.
v.
SADHANA CHAUDHARY AND ORS.

SEPTEMBER 17, 1996

B [S.C. AGRAWAL AND G.T. NANAVATI, JJ.]

University Grants Commission Act, 1956.

C *University Grants Commission (Qualifications Required of a Person to be Appointed to the Teaching Staff of a University and Institutions Affiliated to it) Regulations 1991.*

D *Appointment of Lecturers—Exemption granted to various categories of candidates from appearing in the Nation wide eligibility test by circulars dated Feb. 10, 1993, June 15, 1993 and notification dated June 21, 95 issued by UGC—Validity of.*

E *Constitution of India—Article 14—Right to equality—Cut off dates as prescribed by circulars dated Feb 10, 93 June 15, 1993 and notification dated June 21, 1995 issued by UGC granting exemption to various categories of candidates from appearing in the eligibility test for appointment to the post of lecturers—Held, not violative of right to equality as such.*

F UGC framed University Grants Commission (Qualification required of a person to be appointed to the teaching staff of a university and institutions affiliated to it) Regulations 1982 in exercise of powers conferred by S. 26(1)(e) of the Act laying down the minimum qualifications for the purpose of appointment as university lecturer and college lecturer.

G On recommendations of Mehrotra committee and the Vice Chancellors Conference, UGC framed (Qualification required of a person to be appointed to the teaching staff of a university and Institutions affiliated to it) Regulations. The 1991 regulations laid down that for the purpose of appointment to the post of lecturers in University & colleges a candidate should have good academic record with at least 55% marks
H or an equivalent grade at master's level in the relevant subject from an

Indian University or an equivalent degree from a foreign University. Candidates besides fulfilling the above qualifications should have cleared the eligibility test for lecturers conducted by UGC, CSIR or similar test accredited by the UGC. The rational of the eligibility test prescribed by 1991 Regulations was upheld by this Court in *University of Delhi v. Raj Singh and Ors.*, [1994] Supp. 3 SCC 516. A B

UGC issued circulars on 15.2.93 and June 15, 1993 by which exemption was granted to 4 categories of candidates from appearing in the eligibility test viz. - candidates who have passed UGC/CSIR J.R.F. examination, candidates who have already been awarded Ph. D. Degree, candidates who have already been awarded M.Phil degree upto 31st, December 1992, and those who will submit their Ph.D. thesis upto 31st December 1993. The 1991 Regulations were further amended on 21.6.95 stipulating that candidates who have submitted thesis or passed M.Phil. examination by 31st December 1993 are exempted from the eligibility test for lecturer conducted by UGC, CSIR or similar test accredited by the UGC. C D

Haryana Public Service Commission issued advertisement on Jan. 23, 1995 inviting applications for 200 temporary posts of lecturers (College Cadre) in Haryana Educational Services (Group B) prescribing that along with the essential qualifications the candidates should have cleared the eligibility test for lectureship conducted by UGC, CSIR or similar test accredited by the UGC. However the said condition was not applicable to the candidates who had been awarded M.Phil degree upto 31st December 1992 and who have submitted Ph.D. thesis upto December 31, 1993. E F

The candidates who were awarded M.Phil degree in December 1993 approached High Court by way of a writ petition assailing the cut off dates fixed by the advertisement dated January 23, 1995. Allowing the writ petition High Court held that the cut off dates fixed by the advertisement were unjust and not based on any rationale in as much as it amounts to creation of an artificial class amongst the eligible candidates though similarly situated, as the cut off dates fixed are far earlier to the date of the advertisement dated January 23, 1995. The High G H

- A Court directed the Haryana Public Service Commission to issue a corrigendum extending the dates as prescribed in advertisement dated January 23, 1995 upto December 31, 1994. It further directed HPSC to ensure in future that as and when any such advertisement is issued that should bear in mind that the eligibility dates be not far off from the date of advertisement.
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- C Bihar State University Service Commission on Nov. 22, 1993 issued advertisement inviting applications for appointment to the post of lecturers in various Universities of Bihar. However the said advertisement did not prescribe that the candidates should have cleared the national eligibility test conducted by UGC.

- D Candidates from State of Bihar who had cleared the eligibility test as prescribed by UGC filed Writ Petition challenging the Advertisement issued by Bihar State University Commission on the ground that the qualifications prescribed in the advertisement were not in consonance with the qualifications prescribed by UGC.

- E High Court allowed the writ Petition and held that only the candidates who had passed national eligibility test in terms of the UGC regulations could be considered by the Bihar State University Commission.

- F Bihar State University (Second amendment) Ordinance 1994 and Patna University (Third amendment) Ordinance, 1994 were promulgated which laid down that a candidate who has submitted Ph.D. thesis by December 31, 1993 or has got a degree of M.Phil before December 31, 1992 will be exempted from appearing in the eligibility test of lecturers/Junior Research fellow conducted by UGC/CSIR.

- G Consequently the Bihar State University Commission issued a corrigendum dated December 25, 1994 to the advertisement dated Nov. 22, 1993 to this effect. The said ordinances as well as the circulars dated Feb. 10, 1993 and June 15, 1993 issued by the UGC were challenged by way of Writ petition. The High Court held that UGC was within its jurisdiction in issuing guidelines for the appointment of lecturers in Universities & colleges & Chancellor was also within his Jurisdiction in
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promulgating the ordinance. Hence this appeal by Special Leave.

The questions before this Court were;-

(i) whether the cut off dates fixed under the circular & notification wer valid.

(ii) whether the exemption from clearing eligibility test or equivalent examination under the said circular and notification is valid.

It was contended by UGC that the circulars were in the nature of transitional provisions.

Disposing of the appeals, this court

HELD : 1.1. Exemption granted by the amendment introduced in the 1991 Regulations by circulars dated February 10, 1993, June 15, 1993 and by notification dated June 21, 1995 is not violative of the right to equality guaranteed under article 14 of the Constitution as such candidates constitute a distinct class who could be treated separately in so far as the requirements of clearing the eligibility test is concerned. Such a classification of candidates for the purpose of applicability of the requirement of clearing the eligibility test has a rational basis which has a reasonable nexus with the object sought to be achieved by the 1991 Regulations, i.e. clearing of National Eligibility test for appointment to post of lecturers in various universities so as to remove disparities in the standards of examination at the Masters level between different universities. [408-F-G]

1.2. It is settled law that the choice of date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate must be accepted unless it can be said that it is very wide of the reasonable mark. [406-C-D]

1.3. In the instant cases the cut off dates fixed cannot be held to be capricious or whimsical or wide of the reasonable mark. [406-C-D]

Union of India & Anr. v. M/s. Parameshwaran Match Works Ltd.,

- A [1975] 2 SCR 573 and *Dr. (Mrs. Sushma Sharma Etc. Etc. v. State of Rajasthan & Ors.*, [1985] 3 SCR 243, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12284 of 1996 etc.

- B From the Judgment and Order dated the 21st March, 1995 of the High Court of Punjab and Haryana in Civil Writ Petition No. 2252 of 1995.

M.K. Banerjee, S.B. Sanyal, Gaurav Banerjee, Navin Prakash, A.K. Pandey, B.B. Singh, A.D. Sikri, Ashok K. Mahajan and R.S. Suri for the appearing parties.

- C The Judgment of the Court was delivered by

S.C. AGARWAL, J. Special leave granted in both the special leave petitions.

- D These appeals raise questions relating to grant of exemption from the provisions contained in the University Grants Commission (Qualifications Required of a Person to be Appointed to the Teaching Staff of a University and Institutions Affiliated to it) Regulations, 1991 (hereinafter referred to as 'the 1991 Regulations') which require that for appointment on the post of lecturer in universities and colleges the candidate should have cleared the eligibility test for lecturers conducted by the University Grants Commission (hereinafter referred to as 'the UGC'), Council of Scientific and Industrial Research (for short 'CSIR') or similar test accredited by the UGC.

- F The UGC has been established under the University Grants Commission Act, 1956 (hereinafter referred to as 'the Act') which was enacted by Parliament to make provisions for the co- ordination and determination of standards in Universities. One of the functions entrusted to the UGC under the Act is to recommend to any University the measures necessary for the improvement of University education and advise the University upon the action to be taken for the purpose of implementing such recommendation (Section 12(d)). The UGC has been empowered to make regulations consistent with the Act and the rules made thereunder defining the qualifications that should ordinarily be required of any person to be
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- H appointed to the teaching staff of the University, having regard to the

branch of education in which he is expected to give instruction. [Section 26(1)(e)]. In exercise of the powers conferred by Section 26(1)(e), the UGC made the University Grants Commission (Qualifications Required of a Person to be Appointed to the Teaching Staff of a University and Institutions Affiliated to it Regulations, 1982 (hereinafter referred to as 'the 1982 Regulations') whereby qualifications were prescribed for appointment to a teaching post in the University or in any of the institutions including constituent or affiliated colleges recognised under clause (f) of Section 2 of the Act or in an institution deemed to be a University under Section 3 of the Act. Under the 1982 Regulations the minimum qualifications prescribed for appointment to the post of University lecturers were (i) a Doctorate's Degree or Research work of equally high standard; and (ii) a good academic record with at least second class (C in the seven point scale) Master's degree in a relevant subject from an Indian University or an equivalent degree from a foreign University. For college lecturers the minimum qualifications prescribed were (i) an M.Phil degree or a recognised degree beyond the Master's level or published work indicating the capacity of a candidate for independent research work; and (ii) good academic record with at least second class (C in the seven point scale) Master's degree in a relevant subject from an Indian University or an equivalent degree from a foreign university.

In its report dated March 23, 1985, the National Commission on Teachers II, after observing that standards of performance varied from university to university, expressed the view that it must be ensured that every citizen aspiring to be a teacher at the tertiary level, i.e., a lecturer, qualified in terms of a national yardstick. The Commission recommended that the UGC should incorporate the passing of one of the national tests at least in grade B+ on a seven point scale in its regulations laying down the minimum qualifications of teachers and that this should come into force within two years. Thereafter, in 1986, the UGC appointed a Committee under the Chairmanship of Prof. R.C. Mehrotra (for short 'the Mehrotra Committee') to examine the structure of emoluments and conditions of service of University and college teachers and to make recommendations in this behalf having regard to the necessity of attracting and retaining talented persons in the teaching profession and providing advancement and opportunities to teachers of Universities and colleges. The Mehrotra Committee was of the view that, in order to ensure quality of new entrants to the teaching profession, all aspirants for the post of lecturer in a University

A or college should have passed a national qualifying examination since such a test would have the merit of removing disparities in standards of examination at the Master's level between different Universities and, as a result, local influence would be minimised and the eligibility zone for recruitment would become wider. The Mehrotra Committee recommended the following minimum qualifications for appointment to the post of Lecturer :

"(i) Qualifying at the National Test conducted for the purpose by the UGC or any other agency approved by the UGC.

(ii) Master's degree with at least fifty-five percent marks or its equivalent grade and good academic record.

The minimum qualifications mentioned above should not be relaxed even for candidates possession M.Phil, Ph.D qualification at the time of recruitment."

D After examining the various recommendations contained in the report of the Mehrotra Committee and the recommendations made by the UGC, the Government of India prepared a scheme for revision of pay scales of Teachers in the Universities and Colleges and other measures for maintenance of standards in higher education and, by letter dated June 17, 1987, the Government of India forwarded the said scheme to the Education Secretaries of all the State and Union Territories with a request to formulate detailed proposals for the implementation of the scheme on the lines indicated in the said letter. The said scheme was revised by the Central Government in 1988. The original scheme as well as the revised scheme required that only those candidates who, besides fulfilling the minimum academic qualifications prescribed for the post of Lecturer, have qualified in a comprehensive test, to be specially conducted for the purpose, will be eligible for appointment as Lecturers.

G In 1989 a conference of Vice-Chancellors was held under the auspices of the UGC and one of the major recommendations made in the said conference was :

"The National level test to determine the eligibility for lecturers be conducted. When the State Government conducts such tests, while accrediting them caution be exercised."

H Keeping in view the said recommendations the UGC made the 1991

Regulations which were notified vide notification dated September 19, 1991. The 1991 Regulations superseded the 1982 Regulations and prescribed the following minimum qualifications for the post of lecturers in universities and colleges :

"Good academic record with at least 55% marks or an equivalent grade at Master's level in the relevant subject from an India University or an equivalent degree from a foreign University.

Candidates besides fulfilling the above qualifications should have cleared the eligibility test for lecturers conducted by UGC, CSIR or similar test accredited by the UGC."

By Circular dated February 10, 1993 the UGC granted exemption from appearing in the eligibility test to following categories :

1. All candidates who have passed UGC/CSIR J.R.F. Examination.
2. All candidates who have already been awarded Ph.D degree.
3. All candidates who have already been awarded M.Phil degree upto 31st March, 1991.
4. All candidates who will submit their Ph.D thesis upto 31st December, 1993.

By circular dated June 15, 1993 in respect of candidates falling in category (3) exemption from appearing in the eligibility test was extended to candidates who had been awarded M.Phil degree upto December 31, 1992. By a notification dated June 21, 1995 the 1991 Regulations have been amended and the following proviso has been added below the requirement regarding clearing the eligibility test for appointment on the post of Lecturer :

"Provided that candidates who have submitted Ph.D thesis or passed the M.Phil examination by 31st December, 1993 are exempted from the eligibility test for lecturers conduct by UGC, CSIR or similar test accredited by the UGC."

The requirement regarding clearing the eligibility test for appoint-

A ment on the post of Lecturer as prescribed by the UGC under the 1991 Regulations came up for consideration before this Court in *University of Delhi v. Raj Singh and Ors.*, [1994] Supp. 3 SCC 516. After taking note of the report of the National Commission on Teachers II, the Mehrotra Committee report and the recommendations of the Vice-Chancellors' conference held in 1989, the Court has observed :

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C "It is very important to note that a duty is cast upon the Commission (the UGC) to take 'all such steps as it may think fit for the determination and maintenance of standards of teaching'. These are very wide-ranging powers. Such powers, in our view, would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test, the passing of which would establish that they possess the minimal proficiency for holding such post. The need for such test is demonstrated by the reports of the commissions and committees of educationists referred to above which take note of the disparities in the standards of education in the various Universities in the country. It is patent that the holder of a postgraduate degree from one University is not necessarily of the same standard as the holder of the same postgraduate degree from another University. That is the rational of the test prescribed by the said Regulations."

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(pp. 532, 533)

We may now briefly refer to the facts of these two cases.

F *Civil Appeal No. of 1996 (@ S.L.P. (C) No. 16220/1995)*

G On January 23, 1995, the Haryana Public Service Commission issued an advertisement inviting applications for 200 temporary posts of Lecturers (College cadre) in various subjects in Haryana Educational Service (Group 'B'). In the said advertisement it was prescribed that candidates besides fulfilling the essential qualifications mentioned therein in the respective subjects should have cleared the eligibility test for lectureship conducted by the UGC, CSIR or similar test accredited by the UGC. The said condition was, however, not applicable to candidates mentioned in clauses (a) to (d) of paragraph 5. Clause (b) covered those who had been awarded

H M.Phil degree upto December 31, 1992 and clause (c) covered candidates

who had submitted their Ph.D thesis upto December 31, 1993.

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Sadhana Chaudhary and Aarti Ahluwalia, respondents Nos. 1 and 2, had joined M. Phil course of Punjab University for the session 1991-92. Sadhana Chaudhary submitted her thesis on January 25, 1993, the *viva voce* test was held some time in November, 1993 and the M. Phil degree was awarded to her on December 14, 1993. Aarti Ahluwalia submitted her thesis on October 7, 1992, the *viva voce* test was held in December, 1993 and she was awarded M.Phil degree on December 14, 1993. Since they had been awarded the M.Phil degree after December 31, 1992, they were not given exemption from clearing the eligibility test as per the requirement of the advertisement. They approached the High Court of Punjab and Haryana by filing a writ petition (Civil Writ Petition No. 2252 of 1995) wherein they assailed the cut off dated, i.e., December 31, 1992, as fixed in paragraph 5(b) of the advertisement regarding exemption given to candidates who have been awarded M.Phil degrees from the eligibility test.

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The grievance of both the writ petitioners was that for the purpose of giving exemption from eligibility test for candidates who had obtained M.Phil degrees the cut off date, i.e., December 31, 1992, has been fixed arbitrarily and that there is no rational basis in confining the exemption to candidates who had been awarded M.Phil degrees upto December 31, 1992 in an advertisement issued in January 1995 because as between December 31, 1992 to December 1994 many candidates might have obtained M.Phil degrees.

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The exemption for clearing the eligibility test under clauses (a) to (d) of paragraph 5 of the advertisement was based on the Circulars of the UGC dated February 10, 1993 and June 15, 1993 referred to earlier. It appears that the UGC did not appear in response to the notice issued by the High Court on the writ petition filed by respondents Nos. 1 and 2 and the State of Haryana and the Haryana Public Service Commission, who contested the said writ petition, could not offer any explanation for the said provision in the advertisement. In the absence of any explanation having been offered for fixing December 31, 1992 as the cut off date for grant of exemption to candidates having M.Phil degree, the High Court, by its judgment dated March 21, 1995, allowed the writ petition of respondents Nos. 1 and 2 on the view that cut off dates prescribed in paragraph 5(b) and (c) of the advertisement in respect of candidates who had acquired

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- A M.Phil degree or submitted the Ph.D thesis are totally unjust and based on no rationale inasmuch as it amounts to creation of an artificial class amongst the eligible candidates though similarly situated, i.e., having obtained M.Phil degree after December 31, 1992, or having submitted Ph.D thesis after December 31, 1993 respectively and that cut off dates, i.e.,
- B December 31, 1992 for M.Phil degree and December 31, 1993 in case of submission of Ph.D thesis, are far earlier to the date of the advertisement dated January 23, 1995. According to the High Court, it would not be necessary to appear in the eligibility test for the candidates who have applied or/are applying for the Lecturers' post pursuant to the advertisement dated January 23, 1995 if they have obtained M.Phil degrees or
- C submitted Ph.D thesis before December 31, 1994, i.e., prior to the date of the publication of advertisement dated January 23, 1995. On that view the High Court directed the Haryana Public Service Commission and State of Haryana to issue a corrigendum extending the dates in paragraph 5(b) and (c) of the advertisement dated January 23, 1995 upto December 31, 1994
- D and further directed that in future also they should ensure that as and when any such advertisement is issued, they will bear in mind that the eligibility dates be not far off from the date of advertisement.

Civil Appeal No. of 1996 (@ S.L.P. (C) No. 27375/1995)

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On November 22, 1993, the Bihar State University Service Commission issued an advertisement inviting application is for appointment on the post of Lecturers in various universities in Bihar. The said advertisement did not prescribe that the candidates should have cleared the national eligibility test conducted by the UGC. Some of the candidates who had

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qualified in the national eligibility test filed a writ petition (C.W.J.C. No. 321 of 1994) in the Patna High Court wherein it was alleged that the qualifications that were prescribed in the advertisement were not in consonance with the qualifications prescribed by the UGC whereunder it is necessary that the candidates should have passed the eligibility test. The

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said writ petition was allowed by the High Court by judgment dated March 9, 1994 whereby it was held that the applications of only those candidates who had passed national eligibility examination in terms of the regulations framed by the UGC could be considered by the Bihar State University Service Commission. A Review Petition was filed against the said judgment

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by the Bihar State University Service Commission and by order dated April

27, 1994 the High Court clarified that the Bihar State University Service Commission should consider the candidature of such persons who were eligible to be considered in terms of regulations framed by the UGC. Thereafter the Governor of Bihar promulgated Bihar State University (Second Amendment) Ordinance, 1994 and Patna university (Third Amendment) Ordinance, 1994 on December 8, 1994 where by provisions was made regarding relaxation of the minimum qualification for appointment on the post of Lecturer in university/constituent colleges and a candidate who has got a degree of Ph.D in the concerned subject and/or has submitted his thesis for Ph.D by December 31, 1993 and/or has got a degree of M.Phil before December 31, 1992 has been made eligible for appointment as Lecturer without having passed the Bihar Eligibility Test or the Eligibility Test of Lecturer/Junior Research Fellow (JRF) conducted by the UGC/CSIR. Thereafter the Bihar State University Service Commission issued a Corrigendum dated December 25, 1994 in the advertisement dated November 22, 1993 whereby it was indicated that all candidates who have already done M.Phil upto December 31, 1992 or who have done or submitted the Ph.D thesis upto December 31, 1993 or have qualified the National Eligibility Test (NET)/JRF Test of UGC/CSIR would be exempted from appearing at the Bihar Eligibility Test to be conducted by Bihar State University Service Commission.

Thereupon the writ petition (C.W.J.C. No. 744 of 1995) which has given rise to this appeal was filed in the Patna High Court by the appellants herein. In the said writ petition the validity of the provisions contained in the aforementioned Ordinances dated December 8, 1994 promulgated by the Governor of Bihar regarding relaxation of the minimum qualification for appointment on the post of lecturer as well as the Corrigendum dated December 25, 1994 issued by the Bihar State University Service Commission and the Circulars dated February 10, 1993 and June 15, 1993 issued by the UGC were challenged. The appellants sought a direction that the post of Lecturers be filled by only those persons who have cleared the National Eligibility Test or its equivalent examination. During the Pendency of the said writ petition in the High Court, the Bihar State University Service Commission conducted the Bihar Eligibility Test on June 18, 1995. On June 21, 1995, the UGC issued a notification amending the 1991 Regulations to which reference has already been made earlier. By the impugned judgment dated June 27, 1995 the High Court has held that

A UGC was within its jurisdiction in issuing guidelines for the appointment of Lecturers in the Universities and colleges in the State of Bihar and the Chancellor was also within his jurisdiction in promulgating the Ordinances in consonance thereto. Feeling aggrieved by the said judgment of the High Court the appellants have filed this appeal.

B During the course of arguments it was pointed out that both the Ordinances referred to above which were promulgated by the Governor of Bihar on December 8, 1994 have since been replaced by enactments of the State Legislature, viz., Bihar Acts Nos. 12 and 13 of 1995. It has also been pointed out that the Bihar Eligibility Test for Lecturership that was conducted by the Bihar State University Service Commission on June 18, 1995 has been granted accreditation by the UGC on February 12, 1996 and future tests to be held in the period 1995-97 have also been accredited by the UGC with certain recommendations.

D Both these appeals raise questions regarding validity of the circulars of the UGC dated February 10, 1993 and June 15, 1993 as well as the notification dated June 21, 1995 amending the 1991 Regulations. In Civil Appeal arising out of Special Leave Petition (C) No. 16220 of 1995 the question is whether the cut off dates fixed under the said Circulars and notification in respect of candidates who have obtained M.Phil degree or have submitted their Ph.D thesis were valid. In Civil Appeal arising out of Special Leave Petition (C) No. 27375 of 1995 the question is whether the exemption from clearing the eligibility test or equivalent examination under the said Circulars and notification is valid. This appeal also involves the question regarding validity of the two Ordinances that were promulgated by the Governor of Bihar on December 8, 1994 and the legislative enactment replacing the Ordinances.

G Shri Milon K. Banerjee, the learned senior counsel appearing for the UGC, has submitted that the Circulars dated February 10, 1993 and June 15, 1993 were in the nature of transitional provisions which became necessary as a result of imposing the requirement regarding clearing the eligibility test by a candidate for appointment on the post of Lecturer under the 1991 Regulations. The learned counsel has pointed out that under the 1982 Regulations, which were superseded by the 1991 Regulations, a person possessing Ph.D degree was eligible for appointment on the post of Lecturer in the University and a person possessing M.Phil degree was

eligible for appointment on the post of Lecturer in the college. This position was altered by the 1991 Regulations and candidates having good academic record with it least 55% marks or an equivalent grade at Master's degree level in the relevant subject became eligible for appointment on the post of Lecturers in universities or colleges provided they had cleared the eligibility test for Lecturers conducted by the UGC, CSIR or similar test accredited by the UGC. A Ph.D or M.Phil degree is no longer an essential qualification for such appointments. There were a number of persons who had obtained Ph.D and M.Phil degrees or had joined the Ph.D or M.Phil degree courses prior to the issuance of the 1991 Regulations in the light of the minimum qualifications that were prescribed in the 1982 Regulations. The Circulars dated February 10, 1993 and June 21, 1993 were issued to mitigate the resultant hardship to such persons on account of the introduction of the requirement of clearing the eligibility test in the 1991 Regulations. By Circular dated February 10, 1993 exemption from this requirement was granted to candidates who had already been awarded the Ph.D degree as well as to candidates who would submit their Ph.D thesis upto December 31, 1993. As regards candidates having obtained M.Phil degree, by Circular dated February 10, 1993, the exemption was initially confined to those who had already been awarded M.Phil degree upto March 31, 1991. Subsequently it was felt that there were candidates who had joined the M.Phil course prior to issuance of the 1991 Regulations but had not obtained the M.Phil degree till then and, therefore, by Circular dated June 15, 1993, the date of obtaining the M.Phil degree was extended from march 31, 1991 to December 31, 1992 under the expectation that by that date those persons would be able to complete the M.Phil course and obtain M.Phil degree. Shri Banerjee has contended that both these Circulars dated February 10, 1993 and June 21, 1993 have now ceased to have any significance in view of the notification dated June 21, 1995 whereby the 1991 Regulations have been amended and it has been prescribed that candidates who have submitted Ph.D. thesis or passed the M.Phil examination by December 31, 1993 are exempted from eligibility test for Lecturers conducted by UGC/CSIR or similar test accredited by the UGC. The submission is that after the aforesaid amendment in the 1991 Regulations the only question that is left for consideration is whether the cut off date (December 31, 1993) prescribed in the 1991 Regulations, as amended, can be held to be arbitrary. Shri Banerjee has urged that having regard to the time that is normally taken by a candidate who had registered for the Ph.D

- A degree or had joined M.Phil course prior to the making of the 1991 Regulations, the fixation of December 31, 1993 as the cut off date cannot be held to be arbitrary or unreasonable. Shri Banerjee, in this context, has placed reliance on the decision of this Court in *Union of India & Anr. v. M/s. Parameshwaran Match Works Ltd.*, [1975] 2 SCR 573; and *Dr. (Mrs.) Sushma Sharma Etc. Etc. v. State of Rajasthan & Ors.*, [1985] 3 SCR 243.

We find considerable force in the aforesaid submissions of Shri Banerjee. It is settled law that the choice of a date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forth coming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate must be accepted unless it can be said that it is very wide of the reasonable mark. (See : *Union of India & Anr. v. M/s. Parameshwaran Match Works Ltd.*, [1975] 2 SCR 573, at p. 579; and *Dr. (Mrs.) Sushma Sharma Etc. Etc. v. State of Rajasthan & Ors.*, [1985] 3 SCR 243, at p. 269. In the present case, the date, December 31, 1993, as fixed by notification dated June 21, 1995, in the matter of grant of exemption from the eligibility test for appointment on the post of lecturer has a reasonable basis keeping in view the time taken in submitting the Ph.D thesis or obtaining M.Phil degree by candidates who had undertaken the study for Ph.D or M.Phil degree prior to the issuance of the 1991 Regulations and the date, December 31, 1993 cannot be held to be capricious or whimsical or wide of the reasonable mark. The High Court of Punjab and Haryana has proceeded on the basis that the cut off date for the purpose of granting exemption from eligibility test should have nexus with the date of the advertisement inviting applications for appointment on the post of Lecturers. The High Court was in error in taking this view. The exemption from eligibility test that has been granted under paragraph 5 of the advertisement dated January 23, 1995 is relatable to the introduction of the requirement of eligibility test in the 1991 Regulations. The object underlying the grant of exemption is to mitigate the resultant hardship to candidates who had registered for Ph.D degree or had joined the course for M.Phil degree on the basis of the minimum qualifications prescribed under the 1982 Regulations. The validity of the fixation of cut off date for the purpose of grant of exemption from the eligibility test has to be considered with reference to the date of issuance of the 1991 regulations and not with

reference to the date of advertisement inviting applications for appointment on the post of Lecturers. We are, therefore, unable to uphold the direction of the High Court that it would not be necessary to appear in the eligibility test for candidates who have applied or/are applying for the Lecturers posts pursuant to the advertisement dated January 23, 1995 if they have obtained M.Phil degrees or submitted Ph.D thesis before December 31, 1994, i.e., prior to the date of the publication or advertisement dated January 23, 1995 and the further direction to the Haryana Public Service Commission and State of Haryana to ensure that as and when any such advertisement is issued, they would bear in mind that the eligibility dates be not far off from the date of advertisement. The exemption from the requirement regarding clearing the eligibility test has to be confined within the limits indicated in the amendment introduced in the 1991 Regulations by notification dated June 21, 1995. Respondents Nos. 1 and 2 who had moved the High Court by filing the writ petition obtained their M.Phil degrees prior to December 31, 1993. They would be entitled to exemption from clearing the eligibility test under the terms of the notification dated June 15, 1995. The decision of the High Court, in so far as it relates to the said respondents, is not required to be disturbed and is, therefore, maintained.

We may now come to the validity of the exemption from the requirement regarding clearing the eligibility test that has been granted under the Circulars dated February 10, 1993 and June 15, 1995 and the notification dated June 21, 1995. Shri S.B. Sanyal, the learned senior counsel appearing for the appellants in Civil Appeal arising out of S.L.P. (C) No. 27375 of 1995, has submitted that having regard to the report of the National Commission on Teachers II and the report of the Mehrotra Committee, which form the basis for introducing this requirement by the UGC in the 1991 Regulations, there is no rational basis for granting exemption from the eligibility test to candidate who had submitted Ph.D thesis or passed the M.Phil examination by December 31, 1993. We find no merit in this contention. Prior to the making of the 1991 Regulations there was no statutory requirement regarding clearing the eligibility test for the purpose of appointment on the post of Lecturer. Such a requirement was introduced for the first time by the 1991 Regulations. At the time when the 1991 Regulations were made the provisions contained in the 1982 Regulations had given rise to a legitimate expectation that a person having a Ph.D or

- A M.Phil degree and having good academic record as prescribed under the 1982 Regulations would be eligible for appointment on the post of Lecturer without anything more. While introducing the requirement of clearing the eligibility test in the 1991 Regulations, the UGC did not intend to deprive the persons who had obtained M.Phil degree or Ph.D degree prior to the making of the 1991 Regulations of their legitimate expectation in the matter of appointment on the post of Lecturer in universities or colleges. It was also felt that the said requirement in the 1991 Regulations should not operate to the prejudice of persons who, having regard to the qualifications prescribed in the 1982 Regulations, had registered for the Ph.D degree or had joined study for M.Phil degree course prior to making of the 1991 Regulations and, therefore, provision was made for granting exemption to such candidates with the condition that they should have passed M.Phil examination or should have submitted Ph.D thesis by a particular date. In so far as the date of submission of Ph.D thesis is concerned, the said date, i.e., December 31, 1993, has remained unchanged in the Circulars dated February 10, 1993 and June 15, 1993 and the notification dated June 21, 1995. For M.Phil degree the date was, however, changed from March 31, 1991 to December 31, 1992 by Circular dated June 15, 1993 and from December 31, 1992 to December 31, 1993 by notification dated June 21, 1995. The amendment in the 1991 Regulations that has been made by the notification dated June 21, 1995, in substances, postpones the date of applicability of the requirement regarding clearing the eligibility test in the 1991 Regulations till December 31, 1993 in respect of candidates who had joined the M.Phil course or registered for Ph.D degree. Such candidates constitute a distinct class who could be treated separately in so far as the requirement of clearing the eligibility test was concerned. Such a classification of the candidates for the purpose of applicability of the requirement of clearing the eligibility test has a rational basis which has a reasonable nexus with the object sought to be achieved by the 1991 Regulations. We are, therefore, unable to hold that the exemption that has been granted by the amendment introduced in the 1991 regulations by notification dated June 21, 1995 is violative of the right to equality guaranteed under Article 14 of the Constitution.

Shri Sanyal has also raised the question regarding the validity of the two Ordinances promulgated by the Governor of Bihar on December 8, 1994 and the legislative enactments which have now replaced the Ordinan-

H

ces and has urged that since the 1991 Regulations that have been made by the UGC in exercise of the power conferred under Section 26 of the Act which has been enacted by Parliament under Entry 66 of List I (Union List) of the Seventh Schedule to the Constitution, the Bihar State Legislature was not competent to legislate in this field and the legislation enacted by the Bihar State Legislature is *ultra vires* the legislative powers conferred on the Bihar State Legislature under the Constitution and that the Patna High Court was in error in upholding the validity of the Ordinances. We do not consider it necessary to go into this question. The grievance of the appellants in their writ petition before the High Court was against the corrigendum dated December 25, 1994 issued by Bihar State University Service Commission whereby it was prescribed as under :

"The candidates who have already done M.Phil upto 31st december, 1992 or who have done or submitted Ph.D thesis upto 31st December, 1993 or have qualified in the NET/JRF Tests of UGC/CSIR are exempted from appearing at the BET to be conducted by Bihar State University Service Commission."

This grant of exemption was in accord with the Circulars dated February 10, 1993 and June 15, 1993 that had been issued by the UGC. As noticed earlier Bihar Eligibility Test that was conducted by Bihar State University Service Commission on June 18, 1995 has been accredited by the UGC on February 12, 1996 and further tests to be held in the period 1995-1997 have also been accredited with certain recommendations. The grant of exemption from the eligibility test in the Corrigendum, therefore, does not run contrary to the requirement prescribed by the UGC in the 1991 Regulations read with Circulars dated February 10, 1993 and June 15, 1993 which were applicable at that time. The question regarding validity of the two Ordinances and the legislative enactments replacing them is, therefore, left open.

In the result, Civil Appeal arising out of S.L.P.(C) No. 27375 of 1995 is dismissed. Civil Appeal arising out of S.L.P. (C) No. 16220 of 1995 is partly allowed to the extent that the direction given by the High Court of Punjab and Haryana that it would not be necessary to appear in the eligibility test for candidates who have applied or/are applying for the lecturers' posts pursuant to the advertisement dated January 23, 1995, if

- A they have obtained M.Phil degrees or submitted Ph.D thesis before December 31, 1994, i.e., prior to the date of the publication of advertisement, and further directing the Haryana Public Service Commission and State of Haryana to ensure that as and when any such advertisement is issued, they would bear in mind that the eligibility dates be not far off from the date of advertisement, are set aside and it is declared that the exemption from eligibility test for the purpose of appointment on the post Lecturer will have to be confined to candidates fulfilling the requirements in the 1991 Regulations as amended by notification dated June 21, 1995. The direction given by the High Court of Punjab and Haryana in so far as respondents Nos. 1 and 2 are concerned is not disturbed.
- B
- C

No orders as to costs.

S.S.

C.A. No. 12308/96 dismissed.

C.A. No. 12284/96 partly allowed.