



2026:AHC:158676

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 10829 of 2026

Dr Awadhesh Kumar Tripathi

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Kunwar Bhadur Dixit, Shivendu Ojha, Sr. Advocate
Counsel for Respondent(s)	: C.S.C., Uday Pratap Singh

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. R.K. Ojha, learned Senior Counsel assisted by Mr. Kunwar Bahadur Dixit, learned counsel for the petitioner, Mr. Uday Pratap Singh, learned counsel for respondent nos.2, 3 and 4 and learned Standing Counsel for the State.

2. The present writ petition has been instituted challenging the order dated 30.06.2026 passed by the Director (Administration and Monitoring), Banda University of Agriculture and Technology, Banda, respondent no. 4, whereby the petitioner has been directed to retire from service with effect from 31.07.2026. The petitioner has also challenged the subsequent order dated 15.07.2026 passed by the Director (Administration and Monitoring), Banda University of Agriculture and Technology, Banda, whereby his claim for continuation in service till the end of the academic session, i.e., up to 30.06.2027, has been rejected.

3. Placing the brief facts of the case, learned counsel for the petitioner submits that Banda University of Agriculture and

Technology was established in the year 2010 under the Uttar Pradesh Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958. Being a newly established university, it does not have its own statutes. In view of the Government Order as well as the resolution of the Executive Council, the provisions and statutes applicable to Chandra Shekhar Azad University of Agriculture and Technology, Kanpur, have been made applicable to the said University.

4. Learned counsel for the petitioner further submits that, under Section 2(k) of the University Act, the expression “Teacher” has been defined as follows:

“Teacher means a person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension programmes and includes a person who may be declared by the Statutes to be a teacher.”

5. From the aforesaid provision, it is clear that a person appointed by the University for imparting instruction or conducting and guiding research or extension programmes is included within the definition of “teacher”.

6. Presently, the statutes of the Chandra Shekhar Azad University of Agriculture and Technology, Kanpur are applicable to the University. Accordingly, Chapter XII of the said Statutes governs the service conditions of teachers. Section 28-d of Chapter XII classifies the teachers of the University in the following manner:

“Section 28(d)(1):- The Board of Management shall, from time to time, determine, after considering the recommendation of the Academic Council in this behalf, the classification of the teaching staff of the University with appropriate designations i.e. Professors, Associate Professors/Readers, Assistant Professors/Lecturers and the like. The Board shall also have

power to alter or modify such classification in any particular case.”

“Section 28(d)(2): The teachers of the University shall be employed on a whole-time basis on the scales of pay approved for the University provided that the proportion of time of the teachers to be devoted to teaching, research and extension or administrative duties should be specified in their contract of appointment.”

7. Chapter XIII of the Statute deals with the appointment of staff. Section 4-d thereof prescribes the procedure for selection and appointment to the posts of Professor, Associate Professor, Assistant Professor, and other teachers of the University. The relevant provision reads as follows:

“4(d) - The Selection Committee for the appointment of Professor, Associate Professor, Assistant Professor or teacher shall consist of:

- (i) The Kulpati, who shall be the Chairman thereof;
- (ii) The Dean of the Faculty concerned;
- (iii) One Head of the Department to be nominated by the Kulpati;
- (iv) Two experts to be nominated by the Kuladhipati.”

8. The petitioner was appointed pursuant to Advertisement No. 1 of 2017 to the post of Associate Professor (Agronomy). As per the General Instructions for Candidates for Appointment by Selection to Teaching Posts contained in the said advertisement, Instruction No. 5 stipulates that the primary responsibilities of the selected faculty member shall include teaching undergraduate and postgraduate courses, developing the course curriculum, and establishing laboratories. Instruction No. 6 further provides that, in addition to the aforesaid academic responsibilities, the selected faculty member shall also be required to perform duties relating to research, extension, administration, and the development of farms

and laboratories, or such other functions as may be assigned by the competent authority from time to time.

9. Accordingly, the petitioner was appointed on 09.12.2017 to the post of Associate Professor (Agronomy) in the College of Agriculture. The appointment letter specifically provides that the petitioner's headquarters shall be at the Main Campus of Banda University of Agriculture and Technology, Banda. It further stipulates that the petitioner shall be liable to undertake teaching, research, or extension work at such outstations as may be assigned by the University from time to time. Thus, the terms and conditions of appointment unequivocally contemplate that, although the petitioner's headquarters would remain at the Main Campus, he could be entrusted with teaching, research, or extension duties at any outstation in accordance with the requirements of the University and the directions issued by the competent authority.

10. After joining the respondent as Associate Professor (Agronomy), the petitioner was entrusted with teaching several courses in both the undergraduate and postgraduate programmes during the period from December 2017 to October 2019. The petitioner was also nominated as the Major Advisor for supervising and guiding the students enrolled in the M.Sc. Agriculture (Agronomy) programme.

11. In addition thereto, the petitioner was permitted to continue and complete the research work and doctoral theses of the Ph.D. scholars who had been registered under his supervision at his previous institution, namely, Chandra Shekhar Azad University of Agriculture and Technology, Kanpur. The petitioner also continued to serve as a member of the Advisory Committees of such research scholars, as permitted by the University.

12. Learned counsel for the petitioner submits that the petitioner has been subjected to harassment at the hands of the authorities and

has been denied promotion to the post of Professor despite being eligible for the same. It is further submitted that, by order dated 21.10.2019, the petitioner was transferred from the Department of University to the Millets Research Station, formerly known as Crop Research Farm, Gursarai, which is a research centre. It is stated that the said centre has subsequently been redesignated as the Millets Research Station, and the petitioner, while continuing to hold the post of Associate Professor, has been assigned the charge of In-charge of the aforesaid research centre.

13. It is relevant to note that the petitioner's appointment order dated 09.12.2017 merely authorizes the University to assign him additional teaching, research, or extension work at outstations from time to time, whenever so required. The said appointment order does not confer any authority upon the University to alter or change the petitioner's substantive post of appointment.

14. In support of the aforesaid submission, learned counsel for the petitioner has drawn attention to the University- vide order dated 30.12.2023, whereby Dr. Vijay Sharma, Assistant Professor, was entrusted only with the additional charge of In-charge, Oilseeds Research Centre, Mauranipur, Jhansi, while continuing to hold his substantive post as Assistant Professor. His substantive appointment remained unaffected.

15. It is submitted that, in stark contrast, the petitioner, who was duly appointed against the substantive post of Associate Professor (Agronomy), has been displaced from his substantive post and posted as In-charge, Millets Research Station, formerly known as Crop Research Farm, Gursarai, Jhansi. It is contended that no sanctioned post of Associate Professor, or of any teaching or scientist cadre, exists at the said Research Station.

16. Learned counsel further submits that although research activities relating to millets are carried out at the aforesaid Research

Station, the establishment has no sanctioned teaching post of Associate Professor. The petitioner has nevertheless been posted there and is discharging duties as In-charge of the Research Station. However, he continues to draw his salary from the University against his substantive post of Associate Professor (Agronomy), thereby indicating that his substantive appointment has never been altered and continues to subsist in the University.

17. Learned counsel for the petitioner further submits that the provisions governing the conditions of service applicable to the petitioner are contained in the Statutes of Chandra Shekhar Azad University of Agriculture and Technology, Kanpur. Attention has been invited to Chapter XXI, Clause 28-r(7), which originally provided that the age of superannuation of all classes of employees of the University shall be 60 years. It is submitted that the said provision was subsequently amended by notification dated 11.01.2005, whereby the age of retirement of teachers and scientists serving in the University was enhanced from 60 years to 62 years.

18. It is further submitted that the State Government issued a Government Order dated 14.06.2022. Clause 7 thereof provides that teachers appointed under the Uttar Pradesh Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958, falling within the definition of "teacher" under Section 2(k) and appointed in accordance with the provisions of Section 28-d of Chapter XII read with Clause 4-D of Chapter XIII of the Statutes, are entitled to continue in service until attaining the age of 62 years. The said Government Order further provides that such teachers shall also be entitled to the benefit of extension of service till the end of the academic session, i.e., up to 30th June immediately following their date of superannuation.

19. It is submitted that, in compliance with the aforesaid Government Order, respondent no. 4 circulated the same to the petitioner's University by letter dated 16.06.2022.

20. Learned counsel further submits that the petitioner's date of birth is 10.07.1964. The petitioner was appointed on the substantive post of Associate Professor (Agronomy) and, at the relevant time, was serving as In-charge, Millets Research Station, Gursarai, Jhansi. However, by communication dated 30.06.2026, the petitioner was informed that he would retire from service with effect from 31.07.2026.

21. It is submitted that even prior to the issuance of the aforesaid communication, the petitioner had submitted a representation dated 27.06.2026 before the competent authority requesting that he be granted the benefit of continuation in service till the end of the academic session in accordance with the applicable statutory provisions and the Government Order dated 14.06.2022. Thereafter, upon issuance of the impugned order dated 30.06.2026 directing his retirement with effect from 31.07.2026 without extending the benefit of the academic session, the petitioner submitted a further representation dated 01.07.2026 reiterating his claim for grant of the said benefit.

22. Aggrieved thereby, the petitioner instituted Writ Petition No. 10051 of 2026, praying for quashing of the order dated 30.06.2026 and for issuance of a writ directing the respondents to permit him to continue in service till the conclusion of the academic session, i.e., up to 30.06.2027, together with full salary and all consequential service benefits admissible in law.

23. The said writ petition was disposed of by this Court by order dated 15.07.2026, whereby the competent authority was directed to consider and decide the petitioner's claim within 72 hours. The Court further directed that, until such decision was taken, the impugned communication dated 30.06.2026 retiring the petitioner with effect from 31.07.2026 without extending the benefit of the academic session shall not be given effect to.

24. The impugned orders dated 30.6.2026 and 15.07.2026 have been challenged by learned counsel for the petitioner on the following grounds:

(i) It is submitted that all persons appointed as teachers under Section 2(k) of the Uttar Pradesh Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958, and in accordance with the procedure prescribed under Section 28-d of Chapter XII read with Clause 4-d of Chapter XIII of the applicable Statute, fall within the definition of "teacher". Consequently, such teachers are entitled to retire on attaining the age of 62 years and are further entitled to the benefit of continuation in service till the end of the academic session, i.e., up to 30th June immediately following the date of superannuation.

(ii) It is further submitted that the petitioner was appointed as Associate Professor by a duly constituted Selection Committee in accordance with Clause 4-d of Chapter XIII of the Statutes. His appointment, therefore, is to the substantive post of a teacher, and he squarely falls within the statutory definition of "teacher".

Accordingly, he is entitled to continue in service till the end of the academic session, and his services cannot be brought to an end before the expiry thereof.

(iii) Learned counsel submits that although the petitioner was entrusted with the additional charge of In-charge, Millets Research Station, he has throughout continued to hold the substantive post of Associate Professor (Agronomy). His placement at the Research Station did not alter his substantive appointment as a teacher. Consequently, he continues to be entitled to all statutory benefits available to teachers, including continuation in service till the end of the academic session.

(iv) It is further contended that the respondents cannot, by issuing an administrative order of placement or by assigning additional responsibilities, deprive the petitioner of the statutory benefits attached to his substantive post. The petitioner's vested statutory rights cannot be made dependent upon the discretion or administrative convenience of the respondents.

(v) Learned counsel has also placed reliance upon the case of Dr. Virendra Kumar Singh, who, while serving as Professor (Plant Pathology), was granted the benefit of continuation in service till the end of the academic session. It is submitted that the petitioner's appointment is identical in nature, and, therefore, denial of the same benefit to him amounts to hostile discrimination and violates the principle of equality. Mere placement of the petitioner at the Research Station cannot disentitle him from the benefit extended to other similarly situated teachers.

(vi) Lastly, it is submitted that the petitioner's claim for promotion to the post of Professor is presently pending consideration before this Court. The pendency of the said proceedings further demonstrates that the petitioner continues to be treated as a member of the teaching cadre, and consequently, he cannot be denied the statutory benefit of continuation in service till the end of the academic session.

25. Learned counsel for the petitioner further submits that the respondents have placed reliance upon the Government Order dated 23/25.09.2011 for denying the petitioner the benefit of continuation in service till the end of the academic session. It is contended that the said Government Order was issued exclusively in respect of teachers serving in Government Degree Colleges under the Higher Education Department of the State. The Government Order provides that only such teachers whose conduct is satisfactory, who are physically and mentally fit, and who are actually engaged in teaching work, shall be entitled to the benefit of continuation in service till the end of the academic session.

26. It is submitted that the aforesaid Government Order has no application to the present case, as the petitioner is neither governed by the Higher Education Department nor serving in a Government Degree College. Rather, the petitioner is an employee of Banda University of Agriculture and Technology, Banda, an agricultural university governed by the provisions of the Uttar Pradesh Krishi

Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958, and the Statutes adopted thereunder. Consequently, the petitioner's service conditions are regulated by the statutory provisions applicable to agricultural universities and not by the Government Order governing teachers of Government Degree Colleges.

27. Learned counsel further submits that the action of the respondents in denying the petitioner the benefit of continuation in service till the end of the academic session is in clear contravention of the University Statutes, as amended by notification dated 11.01.2005, as well as the clarification issued by the State Government through Government Order dated 14.06.2022, which specifically recognizes the entitlement of teachers appointed under the relevant provisions of the Act and the Statutes to continue in service until the end of the academic session.

28. It is further submitted that under the Statutes applicable to Chandra Shekhar Azad University of Agriculture and Technology, Kanpur, Professors, Associate Professors and Assistant Professors are entitled to continue in service till the conclusion of the academic session. The said Act and Statutes have admittedly been adopted and are applicable to Banda University of Agriculture and Technology, Banda. Accordingly, the petitioner, having been substantively appointed as an Associate Professor, is fully entitled to the same statutory benefit.

29. Learned counsel also submits that the petitioner continues to draw his salary from the University against the substantive post of Associate Professor (Agronomy). His placement as In-charge of the Millets Research Station, Gursarai, Jhansi, which is merely a research centre and where no sanctioned teaching post exists, does not alter his substantive status as a teacher. It is contended that, in any event, research and the guidance of research programmes form an integral part of the statutory definition of "teacher" under the

applicable Act and Statutes. Therefore, the petitioner cannot be deprived of the benefit of continuation in service merely because he has been assigned charge of a Research Station.

30. On the aforesaid premises, it is submitted that the impugned orders are wholly arbitrary, illegal and contrary to the statutory provisions governing the petitioner's service conditions. The impugned orders, therefore, deserve to be quashed, and the petitioner is entitled to continue in service till the end of the academic session, i.e., up to 30.06.2027, together with full salary and all consequential service benefits admissible in law for the said period.

31. On the other hand, learned counsel appearing for the respondent-University submits that the benefit of continuation in service till the end of the academic session is intended solely to avoid inconvenience to students and to ensure the smooth completion of the academic curriculum. It is contended that the underlying object of granting such session benefit is to enable the concerned teacher to complete the courses assigned during the academic session and to afford sufficient time to the Selection Committee to undertake the process of appointment of teachers so that newly selected teachers may assume charge with the commencement of the next academic session.

32. It is further submitted that the grant of session benefit is not a vested or statutory right conferred upon every teacher. Rather, it is in the nature of a concession or relaxation extended by the State Government with the limited object of maintaining continuity in academic activities and safeguarding the interests of the students.

33. Learned counsel further submits that the grant of such benefit is subject to the fulfilment of various conditions, including that the concerned employee is actually engaged in regular teaching, his or her work and performance are satisfactory, and he or she is

physically and mentally fit to discharge the assigned duties. According to the respondents, continuation in service beyond the age of superannuation is, therefore, not automatic but is dependent upon the satisfaction of the prescribed conditions and the purpose sought to be achieved.

34. It is contended that, in the facts of the present case, the petitioner was not engaged in regular teaching work but was posted at the Millets Research Station, Gursarai, where he was primarily performing research-related functions. Since the petitioner was not imparting classroom instruction to students, he does not fulfil the essential requirement for grant of the benefit of continuation till the end of the academic session and, consequently, is not entitled to the session benefit claimed by him.

35. In support of the aforesaid submissions, learned counsel appearing for the respondent-University has placed reliance upon the judgment of this Court in **Sri Ram Singar Singh v. State of U.P. and Others, Writ-A No. 5910 of 2012, decided on 02.02.2012**. The relevant paragraph of the aforesaid judgement is as follows:-

“6. The sessions benefit is allowed to the teachers to avoid inconvenience to the students. The object of allowing the teachers to continue upto the end of the academic session is to complete the course curriculum, and to allow the Selection Committees to make selections of the teachers, to begin with the new academic session. The grant of session benefit is not a right conferred upon the teachers, it is a relaxation given by the State Government for the purpose of maintaining continuity of the academic session, for the benefit of the students. The sessions benefit also depends upon various other conditions namely whether he/ she is actually teaching any subject regularly, his / her work and performance and health. It is by way of concession given to continue even after attaining the age of superannuation in accordance with the service rules for specific object to be achieved.”

It is submitted that the said decision recognizes that the benefit of continuation in service till the end of the academic session is not an automatic or vested right available to every employee upon attaining the age of superannuation. Rather, such benefit is to be extended only where the prescribed conditions are fulfilled and where its grant advances the object of ensuring continuity in academic instruction and safeguarding the interests of the students. According to the respondents, since the petitioner was not engaged in regular teaching work at the relevant point of time but was discharging duties at the Millets Research Station, he is not entitled to claim the benefit of continuation in service till the end of the academic session.

36. Learned counsel for the respondent-University further submits that reliance is also placed upon the Full Bench judgment of this Court in **Sumitra Dhulia v. Director of Education and Others, Writ Petition No. 11111 of 1996, decided on 12.11.2010**. It is submitted that while considering the entitlement of a Professor serving in the Central Potato Research Institute, Allahabad, the Full Bench examined the scope and object of the benefit of continuation in service till the end of the academic session. Learned counsel submits that the principles laid down in the said judgment fully support the stand of the respondents and govern the controversy involved in the present case. The relevant observations of the Full Bench are reproduced hereinafter:

“16. The rules of superannuation prescribed in respect of public servants are based on consideration of life expectancy, and the capacity of the civil servant, having regard to the climatic conditions in which they work and the nature of work, they do. The rules do not involve the exercise of any discretion. They apply uniformly to all public servants, under the category, in respect of which they are framed. In *Ram Deka vs. General Manager, North East Frontier Railway* AIR 1964 SC 600 the Supreme Court said that the competent authority may frame rules under Article 309 of Constitution which corresponds to Section 124 of the Constitution for compulsory retirement of a government servant. All those rules as laid down in State of

Bombay v. Saubhag Chand M. Doshi AIR 1957 SC 892 will be valid provided they fix both the age of superannuation and an age of compulsory retirement and the services of permanent civil servants are terminated between these two points of time. In *Ram Autar Pandey v. State of Uttar Pradesh*, AIR 1962 All 328 (FB) a Full Bench of our Court observed:-

"The purpose of Fundamental R. 56 is not to confer upon Government servants any right to be retained in service up to a particular age, but to prescribe the age beyond which they may not be retained in service.

This shows the intention with which the rule was framed. What to say of a vested right, not even a right was intended to be conferred by R. 56. The petitioner could not, therefore, say that because at one stage 58 was the age of superannuation according to the rule a right was conferred upon him under which he could insist that he should be retained in service till that age and that the rule-making authority had lost its right to change the rule and to reduce the age of superannuation to a lower figure."

17. In this reference, we are concerned with extension of service as an exception to FR-56 (a), to the petitioner. Any exception to the rule of universal application, has to be strictly construed. In *State of Assam vs. Basanta Kumar Das* AIR 1973 SC 1252 the Supreme Court held in a case of Professor and Head of Department of Physics in Government Cotton College, Guwahati that a government servant has no right to continue in service beyond the age of superannuation prescribed in the statutory rules. If he is retained beyond that age it is only in exercise of the discretion of the Government. In *B.N. Mishra vs. State of UP* AIR 1965 SC 1567 it was held that the State Government was not obliged to retain the services of every public servant for the same length of time. The retention of public servants after the period of retirement depends upon their efficiency, and exigencies of public service. If the Government decides to retain the services of some government servants after the age of retirement, it must retain every government servant for the same length of time. The retention of public servants after the period of retirement depends upon their efficiency, and exigencies of public service. In *State Bank of Bikaner and Jaipur and others vs. Jag Mohan Lal* 1989 Supp 1 SCC 221 the Supreme Court, considering the refusal of the bank to grant extension to the respondent upon his completion of 58 years, held that the retention beyond the age of superannuation is within the discretion of employer. There is no right to continue in service beyond the age of superannuation. The extension to some employees does not imply discrimination against those who were not given extension.

18. In order to meet the difficulties faced by the students on the change of a teacher in educational institutions in the middle of the academic session, the State Government decided by Government Order dated 21.3.1984, to carve out an exception for giving benefit of extension of service to the teachers upto the end of the academic session, subject to the conditions that their work and conduct is satisfactory; they are fit both physically and mentally, and are teaching any subject regularly in the school. The Government Order provided for exemption of each case

individually by the State Government, on presentation of such facts by the competent authorities. Later the Government Order dated 20.4.1995 removed the condition of consideration of each case individually and supplemented it with the condition that the extension will not be granted if any adverse fact is reported against the teacher. The Principals were made responsible to report at least one month before the superannuation, any adverse fact such as unsatisfactory work, or the unfitness of such teacher. The condition precedent of extension of service, namely employment of the teacher in a Government educational institution to be terminated by superannuation in the middle of the academic session, is thus to be strictly complied with.

19. We find substance in the contention of learned Chief Standing Counsel, on the averments in the counter affidavit and material placed on record that CPI, Allahabad, is primarily engaged in educational research work, for reorientation of educational system. The institute conducts research work in comparative analysis of educational standards, and facilities in rural and urban areas, the difficulties faced by under-privileged children in the schools; the recommendation for extra-curriculum activities such as debates, organizing special lecturers and seminars. The institute is also engaged in preparing curriculum and publishing of books relating to teaching. The training of LT grade teachers was also undertaken by the institute for some time. It was later on stopped. A Model School was being run in the premises of CPI, Allahabad in which the teaching of Classes-I to VIII was undertaken. The school had separate teachers with service conditions regulated by the rules framed by Basic Education Board and the regulations applicable to the teachers of the Board.

20. Smt. Prema Rai, Principal of the Government, CPI, Allahabad did not recommend for extension of service of the petitioner vide her letter dated 23.3.1996, to the Director of Education (Secondary) on the ground that the petitioner had not performed any regular teaching work and was engaged in the institute, in research work. The petitioner had orally informed her that she had taught Psychology, as a subject but that there is no proof of such teaching from the time table of the teachers training. In para-3 of her letter she has stated that there is no academic session in the institute. The teachers and Professors in the institute avail 31 days earned leave and also get the benefit of leave encashment. Smt. Dhulia-the petitioner also availed the benefit of earned leave.

21. The object of giving benefit of extension of service beyond the prescribed age of superannuation to the teachers upto end of the academic session i.e. 30th June uniformly, without any reference of individual case, except in case of unsatisfactory work and failing health, is to maintain the continuity in teaching work in educational institutions. In order to ensure that the students do not suffer, on account of the change of teachers in the middle of the academic session, the teachers teaching regular subjects are given extension of service upto the end of academic session commonly known as sessions benefit. The teaching of any subject and the incomplete academic session, are the twin requirements for allowing the benefit of extension of service to such teachers. If any of these requirements are missing, the teacher is not getting

the benefit of the policy, to continue beyond the age of superannuation.

22. The exceptions to the general rule have to be construed strictly in order to achieve the object for which such exceptions are made. The special benefit given to the teachers for avoiding any inconvenience to the students and to maintain the regularity of the academic session, can be availed by teachers only to extend their service after the age of their superannuation, only if they fulfill such conditions laid down in the Government order dated 21.3.1984.”

It is submitted that while considering the entitlement of a Professor serving in the Central Potato Research Institute, Allahabad, the Full Bench examined the scope and object of the benefit of continuation in service till the end of the academic session. Learned counsel submits that the principles laid down in the said judgment fully support the stand of the respondents and govern the controversy involved in the present case.

37. We further submit, in light of the observations made by the Court in the case of **Dr. Indu Singh vs. State of Uttarakhand & others, 2017 SCC Online Utt 1527**, decided by the Division Bench of the Uttarakhand High Court, that the benefit of continuance till the end of the academic session is available only to those teachers who are actually discharging teaching duties. The determination as to whether the petitioner was in fact functioning as a teacher, i.e., performing teaching duties, is a matter to be decided by the competent authority. In view of the aforesaid legal position, the petitioner is not entitled to any such benefit.

38. Having bestowed anxious consideration upon the rival submissions advanced by learned counsel for the parties, examined the pleadings brought on record, the statutory scheme governing the Uttar Pradesh Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958, the Statutes adopted by the Banda University of Agriculture and Technology from the Chandra Shekhar Azad University of Agriculture and Technology, Kanpur, the Government Order dated 14.06.2022, as well as the authorities cited at the Bar, this Court is

of the considered opinion that the petitioner has failed to establish any enforceable legal or statutory right warranting interference under Article 226 of the Constitution of India.

39. There is no quarrel with the proposition that the petitioner was substantively appointed as an Associate Professor and that a "teacher" under Section 2(k) of the University Act includes a person engaged in imparting instruction, conducting research or guiding extension programmes. Equally, there is no dispute that the Statutes governing the University regulate the age of superannuation of teachers. However, the controversy in the present case does not revolve around the age of retirement but concerns the claim for continuation in service beyond the date of superannuation till the conclusion of the academic session. Such continuation cannot be equated with the normal tenure of service nor can it be elevated to the status of an indefeasible statutory entitlement.

40. The legislative intent, the applicable Statutes and the executive policy, when harmoniously construed, unmistakably demonstrate that the extension till the end of the academic session is conceived solely to subserve academic continuity and to protect the interest of students from disruption in the midst of an ongoing session. The object is institutional and not individual. It is neither a reward for long service nor an incident of the substantive appointment. The benefit is conditioned upon the existence of circumstances which justify its grant, namely, that the incumbent is actually engaged in regular teaching so that discontinuance midway through the academic session would adversely affect the instructional process.

41. The material placed before this Court reveals that, at the relevant point of time, the petitioner was functioning as In-charge of the Millets Research Station, Gursarai. The petitioner has not been able to demonstrate that he was entrusted with regular classroom

teaching, that he was handling undergraduate or postgraduate courses during the academic session immediately preceding his retirement, or that his retirement would interrupt any teaching programme or academic curriculum. Mere continuance on the substantive cadre of Associate Professor or the drawing of salary against that post cannot, by itself, satisfy the essential requirement underlying the grant of session benefit.

42. The submission that the petitioner continued to remain a "teacher" within the meaning of Section 2(k) also does not advance his case. The statutory definition may determine the nature of his appointment; however, it does not ipso facto confer an unconditional right to continuation beyond the age of superannuation. A distinction has to be maintained between the status of a teacher and the eligibility to claim an exceptional concession after retirement. To obliterate such distinction would render otiose the very object behind the policy governing continuation till the end of the academic session.

43. This Court also finds substance in the submission advanced on behalf of the respondent-University that the benefit of continuation beyond the age of superannuation is in the nature of a limited concession intended to secure continuity of teaching and not a vested service right. The law on this aspect is no longer *res integra*.

44. In **Sri Ram Singar Singh (supra)**, this Court categorically held that the session benefit is granted only to avoid inconvenience to students and to ensure completion of the academic curriculum. It was unequivocally observed that such continuation is not a right but merely a concession dependent upon fulfilment of prescribed conditions, including actual engagement in regular teaching.

45. The aforesaid principle stands authoritatively reinforced by the Full Bench in **Sumitra Dhulia (supra)**, wherein it was held that

extension beyond the age of superannuation constitutes an exception to the general rule and, therefore, must receive strict construction. The Full Bench emphatically held that the twin conditions for grant of session benefit are that the employee must be teaching regular subjects and that the academic session should remain incomplete. In the absence of either condition, the benefit cannot be claimed. The Full Bench further clarified that an employee engaged primarily in research activities, unconnected with regular classroom teaching, cannot invoke the policy of continuation till the end of the academic session merely because he belongs to an educational institution.

46. The same principle has also been reiterated by the Division Bench of the Uttarakhand High Court in *Dr. Indu Singh (supra)*, wherein it was held that the benefit is confined only to those teachers who are actually discharging teaching duties and that the determination of such factual aspect falls within the domain of the competent authority.

47. Tested on the touchstone of the aforesaid settled principles, the petitioner's claim does not merit acceptance. The competent authority has recorded that the petitioner was not engaged in regular teaching but was discharging duties at the Millets Research Station. No material of unimpeachable character has been placed before this Court to demonstrate that such finding suffers from perversity, mala fides, arbitrariness or patent illegality. In exercise of its writ jurisdiction, this Court cannot substitute its own opinion for that of the competent authority in matters involving factual assessment, unless the decision is shown to be manifestly unreasonable or contrary to law, which is conspicuously absent in the present case.

48. The plea founded upon parity with *Dr. Virendra Kumar Singh* is equally misconceived. Article 14 embodies a positive concept of equality and does not envisage perpetuation of benefits dehors the

governing statutory framework. A claim based upon parity must necessarily rest upon complete identity of factual and legal circumstances. The petitioner has failed to establish that the said officer was similarly situated with regard to the nature of duties actually being discharged at the relevant time. In any event, a benefit allegedly extended in another case cannot furnish an independent source of legal entitlement.

49. Likewise, the pendency of proceedings relating to promotion does not enlarge the petitioner's right to continue in service beyond the prescribed age of superannuation. Promotion and continuation after retirement operate in distinct legal fields and are governed by separate considerations.

50. For all the reasons recorded hereinabove, this Court is satisfied that the impugned orders neither suffer from any jurisdictional error nor disclose any violation of the statutory provisions governing the Agricultural University. The decision of the respondent-University is consistent with the object underlying the applicable Government Orders, the adopted Statutes and the binding judicial precedents governing the field. No ground is, therefore, made out for exercise of the extraordinary discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

51. Accordingly, the writ petition, being devoid of merit, fails and is, hereby, **dismissed**. No order as to costs.

(Mrs. Manju Rani Chauhan,J.)

July 24, 2026

Rahul.