(2008) 9 Supreme Court Cases 284

(BEFORE ALTAMAS KABIR AND MARKANDEY KATJU, JJ.)

RAJBIR SINGH DALAL (DR.) Appellant;

Versus

CHAUDHARI DEVI LAL UNIVERSITY, SIRSA AND ANOTHER Respondents.

Civil Appeal No. 4908 of 2008†, decided on August 6, 2008

A. Universities — Appointment — Eligibility — Appointment to post of Reader — Qualification in "relevant subject" — Necessary requirement of — Appellant possessing MA and PhD in Political Science selected to post of Reader in Public Administration — Appointment, if valid — Held, academic experts have regarded Political Science and Public Administration to be one discipline — For the posts of Reader and Lecturer in Public Administration and Political Science, a large number of appointments have been made in the respondent University as well as in the Higher Education Department treating Political Science and Public Administration as one discipline — There are a large number of persons who have an MA and PhD degrees in Political Science and are working as teachers in Public Administration Department, and vice versa — UGC (Qualifications Required of a Person to be Appointed to the Teaching Staff of a University and Institutions Affiliated to it) Regulations, 1991, Regns. 2 and 1.3.2 (Paras 25 and 26)

B. Universities — UGC Regulations regarding Minimum Qualifications for Appointment of Teachers in Universities and Colleges, 1991 — Regns. 2 and 1.3.2 — Qualification — Post of Reader — Regulations though stipulating requirement of Masters degree in "relevant subject" for Lecturer's post, not mentioning it for post of Reader — Held, the words "in the relevant subject" have to be read into the qualification for the post of Reader also — Interpretation of Statutes — Subsidiary rules — Casus omissus (Paras 12, 13, 26 and 48 & 49)

Siraj-ul-Haq Khan v. *Sunni Central Board of Waqf*, AIR 1959 SC 198; *State Bank of Travancore* v. *Mohd. M. Khan*, (1981) 4 SCC 82; *Gujarat Composite Ltd.* v. *Ranip Nagarpalika*, (1999) 8 SCC 675; *Southern Railway* v. *T.R. Chellappan*, (1976) 3 SCC 190 : 1976 SCC (L&S) 398; *Beni Prasad* v. *Hardai Bibi*, ILR (1892) 14 All 67, *referred to*

Justice G.P. Singh: *Principles of Statutory Interpretation*, 9th Edn., pp. 71-76; K.L. Sarkar: *Mimansa Rules of Interpretation*, P.V. Kane: *History of the Dharmashastra*, Vol. V, Pt. II, Chs. XXIX and XXX, pp. 1282-1351, *referred to*

C. Interpretation of Statutes — Mimansa principles — Aid/tool for interpretation — Appropriateness of — Held, per Katju, J., the matter may also be considered from our traditional principles of interpretation known as the "Mimansa rules of interpretation" — In Mimansa, casus omissus is known as adhyahara — The adhyahara principle permits us to add words to a legal text — Superiority of Mimansa principles over Maxwell's principles in this respect is shown by the fact that Maxwell does not go into further detail and does not mention the sub-categories coming under the general category of casus omissus — Anusanga principle (or elliptical extension)

† Arising out of SLP (C) No. 19142 of 2006. From the Judgment and Final Order dated 21-9-2006 of the High Court of Punjab and Haryana at Chandigarh in CWP No. 6642 of 2005 : (2007) 7 SLR 120

Appellant;

Respondents.

n August 6, 2008

— Appointment to post of Necessary requirement of Science selected to post of , if valid — Held, academic e Administration to be one r in Public Administration tments have been made in ıer Education Department ation as one discipline — n MA and PhD degrees in in Public Administration ns Required of a Person to and Institutions Affiliated (Paras 25 and 26)

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R 1959 SC 198; *State Bank of ujarat Composite Ltd.* v. *Ranip T.R. Chellappan*, (1976) 3 SCC i, ILR (1892) 14 All 67, *referred*

9th Edn., pp. 71-76; K.L. Sarkar: *of the Dharmashastra*, Vol. V,

principles — Aid/tool for r Katju, J., the matter may es of interpretation known Mimansa, casus omissus is permits us to add words to s over Maxwell's principles ll does not go into further coming under the general ple (or elliptical extension)

gment and Final Order dated 21-9- ligarh in CWP No. 6642 of 2005 :

s that an expression occurring in one clause is often meant also for a hbouring clause, and it is only for economy that it is only mentioned in former — In the present case, the anusanga principle of Mimansa hould be utilised and the expression "relevant subject" should also be nserted in the qualification for the post of Reader after the words "at the Masters degree level" (Paras 21, 22 and 25)

Beni Prasad v. *Hardai Bibi*, ILR (1892) 14 All 67, *referred to*

Justice G.P. Singh: *Principles of Statutory Interpretation*, 9th Edn., pp. 71-76; K.L. Sarkar: *Mimansa Rules of Interpretation*, P.V. Kane: *History of the Dharmashastra*, Vol. V, Pt. II, Chs. XXIX and XXX, pp. 1282-1351, *referred to*

D. Practice and Procedure — Academic issue/question — Decisions/Opinion of experts — Courts reviewing such opinions — Propriety of — University and University Grants Commission holding Public Administration and Political Science to be interchangeable and interrelated — High Court holding them to be distinct and separate disciplines — Held, per Katju, J. it is not appropriate for the Supreme Court to sit in appeal over the opinion of the experts who are of the view that Political Science and Public Administration are interrelated and interchangeable subjects (Paras 25, 29 to 31)

Tariq Islam v. *Aligarh Muslim University*, (2001) 8 SCC 546 : 2002 SCC (L&S) 1; *University of Mysore* v. *C.D. Govinda Rao*, AIR 1965 SC 491, *followed*

Uma Kant (Dr.) v. *Dr. Bhikalal Jain*, (1992) 1 SCC 105 : 1992 SCC (L&S) 1 : (1992) 19 ATC 35; *Bhushan Uttam Khare* v. *B.J. Medical College*, (1992) 2 SCC 220 : 1992 SCC (L&S) 554 : (1992) 20 ATC 223; *Rajendra Prasad Mathur* v. *Karnataka University*, 1986 Supp SCC 740; *P.M. Bhargava* v. *UGC*, (2004) 6 SCC 661; *J&K State Board of Education* v. *Feyaz Ahmed Malik*, (2000) 3 SCC 59; *Varanaseya Sanskrit Vishwavidyalaya* v. *Dr. Rajkishore Tripathi*, (1977) 1 SCC 279 : 1977 SCC (L&S) 121; *Medical Council of India* v. *Sarang*, (2001) 8 SCC 427; *Bhagwan Singh* v. *State of Punjab*, (1999) 9 SCC 573 : 2000 SCC (L&S) 185, *referred to*

E. Precedents — Binding effect of judgment — In absence of reasoning and based on a concession — Whether to be considered an authority on the matter — Appellant selected for the post of Reader in Public Administration — Writ petition filed challenging appellant's appointment on grounds of not possessing requisite qualification for the post as he had MA and PhD in Political Science and not in Public Administration — High Court relying on the decision of the Supreme Court in *Bhanu Prasad Panda (Dr.) case*, (2001) 8 SCC 532 wherein it was held, subjects of Public Administration and Political Science are distinct and separate and a person possessing the academic qualification in the discipline of Political Science could not be appointed in the discipline of Public Administration — Applicability — Held, the decision of this Court in *Bhanu Prasad Panda (Dr.) case* cannot be read as a Euclid's formula or treated as a precedent, since it has not given any reason for holding that Political Science and Public Administration are distinct and separate subjects, and since the aforesaid decision was given on a concession

Held :

Per Katju, J.

As regards the decision in *Bhanu Prasad Panda (Dr.) case*, (2001) 8 SCC 532 it has been observed therein that "*it is not in controversy*" that the post of Lecturer in Public Administration and Political Science are distinct and separate. The use of the words "it is not in controversy" shows that a concession was made

on the point by learned counsel for the respondent in that case. Hence the observation cannot be regarded as a precedent. Moreover, no reasoning has been given in the aforesaid passage (quoted above) as to why it has been held that Political Science and Public Administration are distinct and separate subjects. (Para 33)

The decision of a court is a precedent if it lays down some principle of law supported by reasons. Mere casual observations or directions without laying down any principle of law and without giving reasons does not amount to a precedent. (Para 34)

The decision of the Supreme Court in *Bhanu Prasad Panda (Dr.) case* cannot be read as a Euclid's formula or treated as a precedent, since it has not given any reason for holding that Political Science and Public Administration are distinct and separate subjects, and since the aforesaid decision was given on a concession. (Para 41)

State of Punjab v. *Baldev Singh*, (1999) 6 SCC 172 : 1999 SCC (Cri) 1080, *relied on*

Bhanu Prasad Panda (Dr.) v. *Chancellor, Sambalpur University*, (2001) 8 SCC 532 : 2002 SCC (L&S) 14, *explained* and *distinguished*

Karnataka SRTC v. *Mahadeva Shetty*, (2003) 7 SCC 197 : 2003 SCC (Cri) 1722; *State of Orissa* v. *Sudhansu Sekhar Misra*, AIR 1968 SC 647; *Quinn* v. *Leathem*, 1901 AC 495 : (1900-03) All ER Rep 1 (HL); *Allen* v. *Flood*, 1898 AC 1 : (1895-99) All ER Rep 52 (HL); *Ambica Quarry Works* v. *State of Gujarat*, (1987) 1 SCC 213; *Bhavnagar University* v. *Palitana Sugar Mill (P) Ltd.*, (2003) 2 SCC 111; *Bharat Petroleum Corpn. Ltd.* v. *N.R. Vairamani*, (2004) 8 SCC 579; *London Graving Dock Co. Ltd.* v. *Horton*, 1951 AC 737 : (1951) 2 All ER 1 (HL); *Home Office* v. *Dorset Yacht Co. Ltd.*, 1970 AC 1004 : (1970) 2 WLR 1140 : (1970) 2 All ER 294 (HL); *Shepherd Homes Ltd.* v. *Sandham (No. 2)*, (1971) 1 WLR 1062 : (1971) 2 All ER 1267; *British Railways Board* v. *Herrington*, 1972 AC 877 : (1972) 2 WLR 537 : (1972) 1 All ER 749 (HL), *referred to*

Per Kabir, J. (concurring)

The distinction made by the High Court between Public Administration and Political Science in *Bhanu Prasad Panda (Dr.) case* is not based on any jurisprudential reasoning but on the basis of a personal evaluation of the prevailing circumstances. On the other hand, in the instant case, both the University and the University Grants Commission, have supported the stand of the appellant and have filed affidavits in support thereof. In deciding *Bhanu Prasad Panda (Dr.) case*, the Supreme Court did not have the benefit of the views of the University and the University Grants Commission and the conclusion was arrived at on the basis of a personal understanding of Public Administration and Political Science. This is where the distinction lies between the decision in *Bhanu Prasad Panda (Dr.) case* and the case in hand. The decision in *Bhanu Prasad Panda (Dr.) case* does not reflect the aforesaid position and does not also indicate the reason why and on what basis such a decision holding Public Administration and Political Science to be two distinct disciplines had been arrived at. (Paras 47 and 50)

B-M/A/38860/CL

Advocates who appeared in this case :

P.S. Patwalia, Senior Advocate (Rupansh Purit, Harikesh Singh and Kamal Mohan Gupta, Advocates) for the Appellant;

Nidhesh Gupta, Senior Advocate (Tarun Gupta, Deepak Goel, Ms S. Janani, Amitesh Kumar, Gopal Singh, Jasbir Singh Malik, R.K. Tripathi, Rahul Tyagi, K.P. Singh and S.K. Sabharwal, Advocates) for the Respondents.

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SCC 111; *Bharat Petroleum Corpn.*
Graving Dock Co. Ltd. v. *Horton*,
: v. *Dorset Yacht Co. Ltd.*, 1970 AC
94 (HL); *Shepherd Homes Ltd.* v.
ER 1267; *British Railways Board* v.
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4. (2003) 2 SCC 111, *Bhavnagar University* v. *Palitana Sugar Mill (P) Ltd.* 295*e-f*
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25. 1951 AC 737 : (1951) 2 All ER 1 (HL), *London Graving Dock Co. Ltd.* v. *Horton* 296*b*
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27. 1898 AC 1 : (1895-99) All ER Rep 52 (HL), *Allen* v. *Flood* 295*b*
28. ILR (1892) 14 All 67, *Beni Prasad* v. *Hardai Bibi* 291*b*

The Judgments† of the Court were delivered by

MARKANDEY KATJU, J.— Leave granted.

2. This appeal has been filed against the impugned judgment and order dated 21-9-2006 of the High Court of Punjab and Haryana in CWP No. 6642 of 2005.

3. Heard learned counsel for the parties and perused the record.

4. The short question in this appeal is whether the appellant fulfils the requisite academic qualification for appointment to the post of Reader in Public Administration in Chaudhary Devi Lal University, Sirsa.

5. The respondent University issued an advertisement for direct recruitment for various posts, including the post of Reader in Public Administration. The appellant herein, claiming to be fully eligible and qualified for the post of Reader in Public Administration, applied for the aforementioned post on the prescribed format. A Selection Committee interviewed the appellant on 18-7-2004 as per the call letter dated 8-7-2004. The appellant was selected as Reader and he joined as such on 4-4-2005.

6. Respondent 2 herein, Dr. Raj Kumar Siwach, who was a Lecturer in Public Administration had also applied for the post of Reader, but he was not selected and instead the appellant was selected. Hence, Respondent 2 filed a writ petition in the Punjab and Haryana High Court being CWP No. 6642 of 2005 in which he alleged that the appellant herein, Dr. Rajbir Singh Dalal, did not possess the requisite qualification for the post of Reader in Public Administration. It was alleged in the writ petition that the appellant was an MA and PhD in Political Science and not in Public Administration. Hence, it was alleged that the appellant was not eligible for being selected and appointed as Reader in Public Administration.

7. In the counter-affidavit filed by Respondent 1, the University, it was stated that Public Administration is one of the branches of Political Science, and hence the appellant herein was rightly selected by the Selection Committee consisting of eminent experts after evaluating his academic qualifications.

8. In the counter-affidavit filed by the appellant herein before the High Court it was admitted that the appellant had his qualification from the discipline of Political Science, but it was asserted that he was subjected to a process of selection before an expert committee consisting of the Vice-Chancellor of the University, Dr. L. Goyal, Professor of Public Administration, Punjab University and Dr. R.K. Tiwari, a Professor in Indian Institute of Public Administration, New Delhi.

9. The High Court by the impugned judgment dated 21-9-2006 allowed the writ petition and set aside the selection and appointment of the appellant. The High Court relied on the decision of this Court in *Bhanu Prasad Panda (Dr.)* v. *Chancellor, Sambalpur University*[1] in which it was observed that the

† Ed.: Kabir, J. delivered a concurring judgment.

1 (2001) 8 SCC 532 : 2002 SCC (L&S) 14

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10. The High Court also relied on Regulation 2 of the UGC Regulations which states as under:

"2. *Qualification.*—No person shall be appointed to a teaching post in a university or in any institution including constituent or affiliated colleges recognised under clause (*f*) of Section 2 of the University Grants Commission Act, 1956 or in an institution deemed to be a university under Section 3 of the said Act in a subject if he/she does not fulfil the requirements as to the qualifications for the appropriate subjects as provided in the annexure:

Provided that any relaxation in the prescribed qualifications can only be made by the University Grants Commission in a particular subject in which NET is not being conducted or enough number of candidates are not available with NET qualifications for a specified period only. (This relaxation, if allowed, would be given based on sound qualification and would apply to affected universities for that particular subject for the specified period. No individual applications would be entertained.):

Provided further that these Regulations shall not be applicable to such cases where selections of the candidates having had the then requisite minimum qualification as were existing at that time through duly constituted Selection Committee for making appointments to the teaching posts have been made prior to the enforcement of these Regulations.

1.3.2. *Reader.*—Good academic record with a doctoral degree or equivalent published work. In addition to these, candidates when join from outside the university system, shall also possess at least 55% of the marks or an equivalent grade of B in the seven-point scale with latter grades, O, A, B, C, D, E and F at the Masters degree level.

Five years of experience of teaching and/or research excluding the period spent for obtaining the research degrees and has made one mark in the areas of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses and curricula.

1.3.3. *Lecturer.*—Good academic record with at least 55% of the marks or, an equivalent grade of B in the seven-point scale with latter grades, O, A, B, C, D, E and F at the Masters degree level, *in the relevant subject* from an Indian university, or an equivalent degree from a foreign university.

Besides fulfilling the above qualifications, candidates should have cleared the eligibility test (NET) for lecturers conducted by UGC, CSIR, or similar test accredited by UGC.

Note.—NET shall remain the compulsory requirement for appointment as Lecturer even for candidates having PhD degree. However, the candidate who have completed MPhil degree or have submitted PhD thesis in the subject concerned up to 31-12-1993 are exempted from appearing in the NET examination."

11. The High Court was of the view that a person is not qualified for appointment as Reader unless he has qualification in the appropriate subject.

The High Court was also of the view that since the appellant had a qualification in the discipline of Political Science he could not be appointed in the discipline of Public Administration. Aggrieved, this appeal has been filed by the appellant in this Court.

12. Mr P.S. Patwalia, learned Senior Counsel for the appellant submitted that in the UGC Regulations for the post of Lecturer the requirement was a Masters degree *in the relevant subject*, whereas the expression "in the relevant subject" is not mentioned in the qualifications for the post of Reader. Hence, he submitted that it was not necessary for the appellant to have a Masters degree in the relevant subject for appointment to the post of Reader. We regret we cannot agree. In our opinion, the words "in the relevant subject" has to be read into the qualification for the post of Reader also. To take a contrary view would lead to a strange situation as that would mean that a person who has an MA degree in Music or History, is qualified to be appointed as Reader in Political Science.

13. No doubt, the ordinary principle of interpretation is that words should neither be added nor deleted from a statutory provision. However, there are some exceptions to the rule where the alternative lies between either supplying by implication words which appear to have been accidentally omitted, or adopting a strict construction which leads to absurdity or deprives certain existing words of all meaning, and in this situation it is permissible to supply the words (vide *Principles of Statutory Interpretation* by Justice G.P. Singh, 9th Edn., pp. 71-76).

14. Thus, in *Siraj-ul-Haq Khan* v. *Sunni Central Board of Waqf*[2], the Supreme Court interpreted the words "any person interested in a waqf" in Section 5(2) of the U.P. Muslim Waqfs Act, 1936 as meaning "any person interested in what is held to be a waqf".

15. Similarly, in *State Bank of Travancore* v. *Mohd. M. Khan*[3], while construing Section 4(1) of the Kerala Agriculturists' Debt Relief Act, 1970 the Supreme Court interpreted the words "any debt due before the commencement of this Act to any banking company" as meaning "any debt due at and before the commencement of this Act".

16. Similarly, in *Gujarat Composite Ltd.* v. *Ranip Nagarpalika*[4] the Supreme Court interpreted the words "grog minerals" to mean "grog and minerals". In *Southern Railway* v. *T.R. Chellappan*[5] the Supreme Court interpreted the words "any party to an arbitration agreement" occurring in Section 33 of the Arbitration Act, 1940 to mean "a person who is alleged to be a party to an arbitration agreement".

17. We may also consider the matter from our traditional principles of interpretation known as the "Mimansa rules of interpretation".

2 AIR 1959 SC 198
3 (1981) 4 SCC 82 : AIR 1981 SC 1744
4 (1999) 8 SCC 675 : AIR 2000 SC 135
5 (1976) 3 SCC 190 : 1976 SCC (L&S) 398 : AIR 1975 SC 2216

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Aggrieved, this appeal has be

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'5 SC 2216

18. It is deeply regrettable that in our courts of law lawyers quote Maxwell and Craies but nobody refers to the Mimansa principles of interpretation. Most lawyers would not have even heard of their existence. Today our so-called educated people are largely ignorant about the great intellectual achievements of our ancestors and the intellectual treasury which they have bequeathed us. Mimansa principles of interpretation is part of that great intellectual treasury, but it is distressing to note that apart from the reference to these principles in the judgment of Sir John Edge, the then Chief Justice of the Allahabad High Court, in *Beni Prasad* v. *Hardai Bibi*[6], over a hundred years ago and in some judgments of one of us (M. Katju, J.) there has been almost no utilisation of these principles even in our own country. Many of the Mimansa principles are rational and scientific and can be utilised in the legal field (see in this connection *K.L. Sarkar's Mimansa Rules of Interpretation* which is a collection of Tagore Law Lectures delivered in 1905 containing the best exposition of these principles in English. Most other books on Mimansa are in Sanskrit).

19. The Mimansa principles of interpretation, as laid down by Jaimini around 5th century BC in his sutras and as explained by Sabar, Kumarila Bhatta, Prabhakar, Mandan Mishra, Shalignath, Parthasarathy Mishra, Apadeva, Shree Bhat Shankar, etc. were regularly used by our renowned jurists like Vijnaneshwara (author of *Mitakshara*), Jimutvahana (author of *Dayabhaga*), Nanda Pandit (author of *Dattaka Mimansa*), etc. whenever they found any conflict between the various smritis e.g. *Manusmriti and Yajnavalkya Smriti*, or ambiguity, ellipse or absurdity in any smriti. Thus, the Mimansa principles were our traditional system of interpretation of legal texts. Although originally they were created for interpreting religious texts pertaining to the yagya (sacrifice), they were so rational and logical that gradually they came to be utilised in law, philosophy, grammar, etc., that is, they became of universal application. Thus, Shankaracharya has used the Mimansa adhikaranas (principles) in his bhashya on the vedanta sutras.

20. The Mimansa principles were regularly used by our great jurists for interpreting legal texts (see also in this connection *P.V. Kane's History of the Dharmashastra*, Vol. V, Pt. II, Ch. XXIX and Ch. XXX, pp. 1282-1351).

21. In Mimansa, casus omissus is known as adhyahara. The adhyahara principle permits us to add words to a legal text. However, the superiority of the Mimansa principles over Maxwell's principles in this respect is seen by the fact that Maxwell does not go into further detail and does not mention the sub-categories coming under the general category of casus omissus. In the Mimansa system, on the other hand, the general category of adhyahara has under it several sub-categories e.g. anusanga, anukarsha, vakyashesha, etc. Since in this case we are concerned with the anusanga principle, we may explain it in some detail.

22. The anusanga principle (or elliptical extension) states that an expression occurring in one clause is often meant also for a neighbouring

6 ILR (1892) 14 All 67

clause, and it is only for economy that it is only mentioned in the former (see Jaimini 2, 2, 16). The anusanga principle has a further sub-categorisation. If a clause which occurs in a subsequent sentence is to be read into a previous sentence it is a case of tadapakarsha, but when it is vice versa it is a case of tadutkarsha.

23. The anusanga principle of Mimansa was used by Jimutvahana in *Dayabhaga*. Jimutvahana found that there is a text of Manu which states:

> "Of a woman married according to the Brahma, Daiva, Arsha, Gandharva and Prajapartya form, the property shall go to her husband if she dies without issue. But her property, given to her on her marriage in the form called Asura, Rakshasa and Paisacha, on her death without issue, shall become the property of her parents."

It can be seen that in the second sentence the word "property" is qualified by the words "given to her on her marriage", whereas in the first sentence there is no such qualification. Jimutvahana, using the anusanga principle of Mimansa, said that the words "given to her on her marriage" should also be inserted in the first sentence after the word "property", and hence there also the word "property" must be interpreted in a qualified sense.

24. In MITAKSHARA also the anusanga principle of Mimansa has been used. *Yajnavalkya II*, 135-36 lays down the order of succession to the wealth of a person dying sonless. *Yajnavalkya II*, 137 deals with succession to property of a forest hermit, an ascetic, or a perpetual vedic student. *Mitakshara* then holds that *Yajnavalkya II*, 138 "*samaristinastu samarisri*" is to be construed as an exception to *Yajnavalkya II*, 135, 136 and understands that the words "of one dying without having a son" (grandson or great grandson) are to be supplied before *Yajnavalkya II*, 138 from II, 136 i.e. there is to be anusanga of the words "*svaryatasya-putrasya*".

25. In our opinion, in the present case, the anusanga principle of Mimansa should be utilised and the expression "relevant subject" should also be inserted in the qualification for the post of Reader after the words "at the Masters degree level". Hence, we cannot accept the submission of Mr Patwalia in this respect. However, we agree with Mr Patwalia that since academic experts have regarded Political Science and Public Administration to be one discipline, it is not right for this Court to sit in appeal over the opinion of the experts.

26. Mr Patwalia, learned counsel has pointed out that for the posts of Reader and Lecturer in Public Administration and Political Science, a large number of appointments have been made in the respondent University as well as in the Higher Education Department of Haryana treating Political Science and Public Administration as one discipline. There are a large number of persons who have MA and PhD degrees in Political Science and are working as teachers in Public Administration Department, and vice versa.

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27. In *Tariq Islam* v. *Aligarh Muslim University*[7] following its earlier decision of the Constitution Bench of this Court in *University of Mysore* v. *C.D. Govinda Rao*[8], this Court observed that "normally it is wise and safe for the courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the courts generally are".

28. A similar view has been expressed in several decisions of this Court e.g. *Uma Kant (Dr.)* v. *Dr. Bhikalal Jain*[9] (SCC para 9 : JT para 9), *Bhushan Uttam Khare* v. *B.J. Medical College*[10] (SCC para 8 : JT para 8), *Rajendra Prasad Mathur* v. *Karnataka University*[11] (para 7), *P.M. Bhargava* v. *UGC*[12] (SCC para 13), *J&K State Board of Education* v. *Feyaz Ahmed Malik*[13], *Varanaseya Sanskrit Vishwavidyalaya* v. *Dr. Rajkishore Tripathi*[14] (SCC para 12), *Medical Council of India* v. *Sarang*[15] (SCC para 6) and *Bhagwan Singh* v. *State of Punjab*[16] (SCC para 6).

29. It may be mentioned that on a clarification sought from UGC whether a candidate who possesses a Masters degree in Public Administration is eligible for the post of Lecturer in Political Science and vice versa, UGC wrote a letter dated 5-3-1992 to the Registrar, M.D. University, Rohtak stating that the subjects of Political Science and Public Administration are interchangeable and interrelated, and a candidate who possesses Masters degree in Public Administration is eligible as Lecturer in Political Science and vice versa. Thus, this is the view of UGC, which is an expert in academic matters, and the Court should not sit in appeal over this opinion and take a contrary view.

30. Learned counsel for the appellant has also pointed out that a large number of universities in this country have a single department for both the subjects of Political Science and Public Administration, and this also demonstrates that the subjects Political Science and Public Administration are interchangeable and interrelated. Political Science is the mother subject and Public Administration is the offshoot of the same.

31. We agree with Mr Patwalia, learned counsel, that it is not appropriate for this Court to sit in appeal over the opinion of the experts who are of the view that Political Science and Public Administration are interrelated and interchangeable subjects, and hence a candidate who possesses Masters degree in Public Administration is eligible for the post of Lecturer in Political Science and vice versa. We are told that a large number of persons having

7 (2001) 8 SCC 546 : 2002 SCC (L&S) 1
8 AIR 1965 SC 491
9 (1992) 1 SCC 105 : 1992 SCC (L&S) 1 : (1992) 19 ATC 35 : JT (1991) 4 SC 75
10 (1992) 2 SCC 220 : 1992 SCC (L&S) 554 : (1992) 20 ATC 223 : JT (1992) SC 583
11 1986 Supp SCC 740 : AIR 1986 SC 1448
12 (2004) 6 SCC 661
13 (2000) 3 SCC 59
14 (1977) 1 SCC 279 : 1977 SCC (L&S) 121
15 (2001) 8 SCC 427
16 (1999) 9 SCC 573 : 2000 SCC (L&S) 185

qualifications in the interchangeable/interrelated subjects—have been appointed Readers/Professors/Lecturers and are continuing as such in various colleges and universities in the State.

32. In Para 5 of the counter-affidavit filed by the respondent University before the High Court, it has been specifically stated that Public Administration is one of the branches of Political Science, and the appellant was selected by a Selection Committee consisting of eminent experts after evaluating his qualifications and work.

33. As regards the decision in *Bhanu Prasad Panda (Dr.)* v. *Chancellor, Sambalpur University*[1] we have carefully perused the same. In para 5 of the said judgment it has been observed: (SCC pp. 535-36)

> "5. ... Though the Department concerned for which the appointment is to be made is that of 'Political Science and Public Administration', the appointment with which we are concerned, is of Lecturer in Political Science and not Public Administration and subject-matterwise they are different and not one and the same. It is not in controversy that the posts of Lecturers in Public Administration and in Political Science are distinct and separate and on selection the appellant could not have been appointed as Lecturer in Public Administration...."

A perusal of the above passage shows that the observation that Political Science and Public Administration are distinct and separate subjects was apparently given on a concession, because what has been stated therein is that "*it is not in controversy*" that the post of Lecturer in Public Administration and Political Science are distinct and separate. The use of the words "it is not in controversy" shows that a concession was made on the point by learned counsel for the respondent in that case. Hence the observation cannot be regarded as a precedent. Moreover, no reasoning has been given in the aforesaid passage (quoted above) as to why it has been held that Political Science and Public Administration are distinct and separate subjects.

34. The decision of a court is a precedent if it lays down some principle of law supported by reasons. Mere casual observations or directions without laying down any principle of law and without giving reasons does not amount to a precedent.

35. In *State of Punjab* v. *Baldev Singh*[17] a Constitution Bench of this Court observed (vide SCC para 43) that a decision is an authority for what it decides (i.e. the principle of law it lays down), and not that everything said therein constitutes a precedent.

36. In *Karnataka SRTC* v. *Mahadeva Shetty*[18] (vide SCC para 23) this Court observed that the only thing binding as an authority upon a subsequent Judge is the principle upon which the case was decided.

1 (2001) 8 SCC 532 : 2002 SCC (L&S) 14
17 (1999) 6 SCC 172 : 1999 SCC (Cri) 1080
18 (2003) 7 SCC 197 : 2003 SCC (Cri) 1722

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37. As observed by this Court in *State of Orissa* v. *Sudhansu Sekhar ...isra*[19] (vide AIR para 13): (AIR pp. 651-52, para 13)

> "*13.* ... A decision is only an authority for what it actually decides. ... *What is of the essence in a decision is its ratio* and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury, LC said in *Quinn* v. *Leathem*[20]: (All ER p. 7 G-I)
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> Now before discussing *Allen* v. *Flood*[21] and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, *but governed and qualified by the particular facts of the case* in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all."

(emphasis supplied)

38. In *Ambica Quarry Works* v. *State of Gujarat*[22] (vide SCC para 18) this Court observed: (SCC p. 221)

> "*18.* ... The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

39. In *Bhavnagar University* v. *Palitana Sugar Mill (P) Ltd.*[23] (vide SCC para 59) this Court observed: (SCC p. 130)

> "*59.* ... It is also well settled that *a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision*."

(emphasis supplied)

40. As held in *Bharat Petroleum Corpn. Ltd.* v. *N.R. Vairamani*[24] a same judgment this Court also observed: (SCC pp. 584-85, paras 9-12) decision cannot be relied on without disclosing the factual situation. In the

> "*9.* Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. *Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute* and that too taken out of their context. These observations must be read in the

19 AIR 1968 SC 647

20 1901 AC 495 : (1900-03) All ER Rep 1 (HL)

21 1898 AC 1 : (1895-99) All ER Rep 52 (HL)

22 (1987) 1 SCC 213

23 (2003) 2 SCC 111

24 (2004) 8 SCC 579 : AIR 2004 SC 4778

context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd.* v. *Horton*[25] (AC at p. 761), Lord MacDermot observed: (All ER p. 14 C-D)

> 'The matter cannot, of course, be settled merely by treating the *ipsissima verba* of Willes, J. as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge.'

10. In *Home Office* v. *Dorset Yacht Co. Ltd.*[26] (All ER p. 297*g-h*) Lord Reid said, 'Lord Atkin's speech ... is not to be treated as if it were a statutory definition. It will require qualification in new circumstances.' Megarry, J. in *Shepherd Homes Ltd.* v. *Sandham (No. 2)*[27], (All ER p. 1274*d-e*) observed: 'One must not, of course, construe even a reserved judgment of Russell, L.J. as if it were an Act of Parliament;' and, in *British Railways Board* v. *Herrington*[28] Lord Morris said: (All ER p. 761*c*)

> 'There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.'

11. Circumstantial flexibility, *one additional or different fact may make a world of difference between conclusions in two cases*. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

> 'Each case depends on its own facts and a close similarity between one case and another is not enough because *even a single significant detail may alter the entire aspect*, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.
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> * * *
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> Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My

25 1951 AC 737 : (1951) 2 All ER 1 (HL)
26 1970 AC 1004 : (1970) 2 WLR 1140 : (1970) 2 All ER 294 (HL)
27 (1971) 1 WLR 1062 : (1971) 2 All ER 1267
28 1972 AC 877 : (1972) 2 WLR 537 : (1972) 1 All ER 749 (HL)

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plea is to keep the path of justice clear of obstructions which could impede it.' (emphasis supplied)

41. In view of the above, we are of the opinion that the decision of this Court in *Bhanu Prasad Panda (Dr.) case*[1] cannot be read as a Euclid's formula or treated as a precedent, since it has not given any reason for holding that Political Science and Public Administration are distinct and separate subjects, and since the aforesaid decision was given on a concession.

42. For the foregoing reasons, we are of the opinion that the impugned judgment and order of the High Court cannot be sustained and it is hereby set aside. The appeal is allowed and the writ petition filed in the High Court stands dismissed. There shall be no order as to costs.

ALTAMAS KABIR, J. (*concurring*)— Having had the benefit of going through my learned Brother's draft judgment, I wish to indicate my own views in arriving at the same conclusion as arrived at by my learned Brother but by traversing a different route. Since the facts of the case have been adequately dealt with by my learned Brother, I shall confine myself to the legal aspect only.

44. In my view, the main question which falls for consideration in this appeal is whether the appellant, who has a postgraduate degree and PhD in Political Science could have been appointed as Reader in Public Administration by the respondent University. The answer to the connected question, which flows from the first, as to whether the High Court was right in quashing the appellant's appointment as Reader in Public Administration, depends on the answer to the first.

45. As has been pointed out by my learned Brother, the University has in its counter-affidavit taken a stand that Public Administration is one of the branches of Political Science and the Selection Committee comprised of eminent scholars had rightly chosen the appellant for the post of Reader after considering his academic achievements and also relying upon the view of the University Grants Commission in its letter dated 5-3-1992 stating that the subjects of Political Science and Public Administration are interchangeable and interrelated and that a candidate who possesses a Masters degree in Public Administration is eligible to be appointed as Lecturer in Political Science. Similarly, a candidate possessing a Masters degree in Political Science is eligible for appointment to the post of Lecturer in Public Administration.

46. Despite the aforesaid views expressed by the expert bodies such as the University and the University Grants Commission, the High Court has held Public Administration and Political Science to be distinct and separate disciplines. In arriving at such conclusion, the High Court has relied on a decision of this Court in *Bhanu Prasad Panda (Dr.)* v. *Chancellor, Sambalpur University*[1], wherein this Court had held Public Administration and Political Science to be two separate disciplines. Further reliance has been placed by the High Court on Regulation 2 of the University Grants Commission Rules

1 *Bhanu Prasad Panda (Dr.)* v. *Chancellor, Sambalpur University*, (2001) 8 SCC 532 : 2002 SCC (L&S) 14

to arrive at the finding that for appointment to the post of Reader a candida would have to be qualified in the relevant subject.

47. As has also been commented upon by my learned Brother, th distinction made by the High Court between Public Administration and Political Science in *Bhanu Prasad Panda (Dr.) case*[1] is not based on any jurisprudential reasoning but on the basis of a personal evaluation of the prevailing circumstances. On the other hand, in the instant case, both the University and the University Grants Commission, have supported the stand of the appellant and have filed affidavits in support thereof. In deciding *Bhanu Prasad Panda (Dr.)*[1] this Court did not have the benefit of the views of the University and the University Grants Commission and the conclusion was arrived at on the basis of a personal understanding of Public Administration and Political Science. This is where the distinction lies between the decision in *Bhanu Prasad Panda (Dr.) case*[1] and the case in hand.

48. The recruitment rules followed by the University clearly indicate that in order to be appointed as Lecturer in a particular discipline a candidate must have a postgraduate degree in the relevant subject. On the other hand, for appointment to the post of Reader such a condition has not been specified. In fact, in Regulation 2 it has been generally indicated that no person shall be appointed to a teaching post in the University or in any institution, including constituent or affiliated colleges recognised under the UGC Act, 1956, or any institution deemed to be a university under Section 3 of the said Act, in a subject, if he/she does not fulfil the requirement as to the qualifications for the appropriate subject.

49. In my view, the omission in the Regulations cannot be said to be unintentional or a case of casus omissus. In my view, the expression "appropriate subject" was intended to cover the post of Reader and once the expert bodies had indicated that the appellant who held a postgraduate degree in Political Science was eligible to be appointed to the post of Reader in Public Administration and had been rightly appointed to such post, it is normally not for the courts to question such opinion, unless it has specialised knowledge of the subject.

50. Significantly, the decision in *Bhanu Prasad Panda (Dr.) case*[1] does not reflect the aforesaid position and does not also indicate the reason why and on what basis such a decision holding Public Administration and Political Science to be two distinct disciplines had been arrived at.

51. In such circumstances, I agree with my learned Brother that the judgment of the High Court impugned in this appeal cannot be sustained. The appeal is accordingly allowed; the writ petition filed in the High Court by the respondent University is dismissed and the appointment of the respondent as Reader in Public Administration is upheld.

52. There will be no order as to costs.

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[1] *Bhanu Prasad Panda (Dr.) v. Chancellor, Sambalpur University*, (2001) 8 SCC 532 : 2002 SCC (L&S) 14