

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No. 969/2026

Reserved on 06.08.2026.
Pronounced on 11 .08.2026
Uploaded on 11.08.2026

Full judgment is pronounced

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Asmat Parveen

..... Petitioner (s)

Through :- Mr. Shafqat Nazir Advocate with
Ms. Sabreena Bashir Advocate.

V/s

Islamic University of Science and
Technology th. Its V.C. and another

.....Respondent(s)

Through :- Mr. Jahangir Dar G.A.

**Coram: HON'BLE THE CHIEF JUSTICE(ACTING)
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

CHIEF JUSTICE (A)

1 This petition, filed under Article 226 of the Constitution of India, is directed against an order and judgment dated 09.04.2026 passed by the Central Administrative Tribunal, Srinagar Bench, Srinagar (for short, “the Tribunal”) in T.A. No. 161/2024 titled *Asmat Parveen v. Islamic University of Sciences and Technology and another*, whereby the petitioner filed by the petitioner has been dismissed. It is pertinent to note that the petitioner had initially instituted WP(C) No. 995/2023 before this Court. Upon coming into force of the Jammu and Kashmir Reorganisation Act, 2019 and constitution of

the Central Administrative Tribunal, the said writ petition came to be transferred to the Tribunal and was registered as T.A. No. 161/2024.

2 Before adverting to the grounds of challenge, it would be appropriate to notice, in brief, the facts leading to the filing of the present petition.

3 The petitioner, while serving in the Sher-i-Kashmir Institute of Medical Sciences (SKIMS), Soura, Srinagar, applied for the post of Associate Professor in the Nursing College of the Islamic University of Sciences and Technology (IUST) pursuant to Advertisement Notice No. 07 of 2015 dated 02.12.2015. She was selected and appointed to the said post vide Order No. 201/Estt. of 2016 dated 30.05.2016. She was accordingly relieved by SKIMS, Soura, on 14.06.2016 to enable her to join IUST. Her past service rendered at SKIMS was subsequently sanctioned and counted by the Registrar, IUST, for the purposes of service and retiral benefits.

4 The case set up by the petitioner before the Tribunal was that the University Grants Commission Regulations notified on 18.07.2018 prescribe the minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and lay down measures for maintenance of standards in higher education. According to the petitioner, the said Regulations prescribe the age of superannuation of Associate Professors and Professors at 62 years. It was, therefore, contended that, being an Associate Professor in IUST, she was entitled to continue in service up to the age of 62 years, whereas the respondents sought to retire her on attaining the age of 60 years. The petitioner also relied upon the case of Abdul Majeed Andrabi, Assistant Professor, Faculty of Arabic, IUST, contending that the University

had permitted him to continue up to the age of 62 years. On that basis, it was urged that the respondents could not adopt a different yardstick in her case.

5 It was further contended that, upon her appointment in IUST, the petitioner became subject to the rules and regulations governing the employees of the University. Reliance was placed upon the order of the Registrar dated 06.09.2021 whereby her past service was counted for retiral benefits and she was held entitled to the Old Pension Scheme applicable to the University. According to the petitioner, this demonstrated that her service conditions were governed by the statutory framework applicable to IUST. The petitioner also relied upon Statute 5.18 of the Statutes of IUST, which provides that teachers in the permanent whole-time service of the University shall retire on superannuation on attaining the age of 65 years, subject to the assent of the Chancellor. It was contended that the age of superannuation applicable to the teaching faculty of the University had, in practice, been 62 years and was subsequently extended to 65 years in terms of the amended Statutes.

6 The grievance of the petitioner, therefore, was that, being an Associate Professor in the respondent-University, she could not be subjected to an age of superannuation different from that applicable to other similarly situated members of the teaching faculty and that her proposed retirement at the age of 60 years was discriminatory and contrary to the statutory and regulatory framework governing the University.

7 The respondents contested the claim of the petitioner before the Tribunal. Their case, in substance, was that the age of superannuation applicable to the University faculty could not be extended to the petitioner as she was serving in the Alamdar Memorial College of Nursing and Medical

Technology, Charar-i-Sharief, Budgam, a constituent Nursing College governed by a distinct regulatory framework applicable to nursing education institutions. According to the respondents, the said Nursing College is not a teaching department of the University and the service conditions of its faculty are governed by the regulatory framework applicable to nursing institutions, including the norms prescribed by the Indian Nursing Council (INC). Under the said framework, the age of superannuation of the faculty of Nursing Colleges was stated to be 60 years. It was accordingly contended that the provisions governing the faculty of the teaching departments of the University could not automatically be applied to the faculty working in constituent Nursing Colleges.

8 The respondents further contended that the distinction between University teaching faculty and the faculty of Nursing Colleges was a recognised distinction based upon the nature of appointment, the governing statutes and the regulatory authorities. It was pleaded that similarly situated faculty members working in the constituent Nursing Colleges, including Ms. Zamrooda, Assistant Professor, and Ms. Munima Parveen, Assistant Professor (Nursing), had also been retired on attaining the age of 60 years. With regard to Order dated 06.09.2021, the respondents submitted that the said order merely accorded post facto sanction for counting the past service rendered by the petitioner at SKIMS for the limited purpose of retiral benefits and did not alter her cadre, service conditions or the regulatory framework applicable to her. It was further contended that the petitioner was not entitled to claim any right on the principle of parity in the matter of age of superannuation merely because she had been brought under the Old Pension Scheme applicable to IUST.

9 The Tribunal, after hearing the learned counsel for the parties and considering the material placed on record, dismissed the Transfer Application vide the impugned judgment dated 09.04.2026.

10 The petitioner has called in question the said judgment as also the order of her retirement dated 31.03.2026, primarily on the ground that the same are arbitrary, illegal and unconstitutional and offend Articles 14, 15, 16 and 21 of the Constitution of India. It is contended that the petitioner has been retired at the age of 60 years while, according to her, similarly situated teaching faculty in other disciplines have been permitted to continue up to the age of 65 years.

11 The petitioner has assailed the judgment of the Tribunal as also the order of her retirement, inter alia, on the grounds that the same are contrary to the statutory and regulatory framework governing her service conditions and that the respondent-University, being a State-owned University subject to the regulatory framework of the UGC, INC and other applicable instruments, could not selectively apply the norms governing its teaching faculty. It is contended that the Tribunal failed to properly appreciate the material on record, including the statutory provisions, INC Guidelines and the plea of discrimination, and consequently erred in its findings recorded in paragraphs 22 and 23 of the impugned judgment. It is further contended that the Tribunal erred in distinguishing between affiliated and constituent colleges while determining the age of superannuation of Nursing faculty. Reliance is placed upon the practice obtaining in Rajiv Gandhi University of Health Sciences, Karnataka, where the INC Guidelines are stated to have been adopted and the age of superannuation of Nursing faculty prescribed as 65 years, with continuation up to 70 years. According to the petitioner, having adopted the INC Guidelines for appointment and eligibility of Nursing

faculty, the respondents could not disregard the same while determining their conditions of service, including superannuation, and, thus, she is entitled to parity with similarly situated faculty.

12 The petitioner relies upon Statute 5.18 of the IUST Statutes, which prescribes the age of superannuation of teachers in permanent whole-time service at 65 years, contending that the provision makes no distinction based on discipline and consequently covers Nursing faculty forming part of the School of Health Sciences. It is also urged that the Nursing faculty and the constituent Nursing College form part of the institutional structure of the University; that the petitioner was appointed by the University and her salary and other benefits were drawn through its Finance Officer/Chief Accounts Officer, and that she could not, therefore, be treated as belonging to a separate cadre for purposes of superannuation.

13 Reliance is also placed upon S.R.O. 266 dated 30.08.2014, Government Order No. 183-JK(HE) of 2023 dated 03.07.2023, the Gazette Notification dated 26.10.2010 and the Office Memorandum dated 23.12.2010 issued by the Ministry of Health and Family Welfare, Government of India, to contend that the age of superannuation of the concerned teaching faculty stood enhanced to 62/65 years, subject to the conditions prescribed therein. Even if the Nursing College were treated as a distinct establishment, it is contended that the petitioner could not have been retired before attaining 62 years. The petitioner also assails the Tribunal's finding that continuation in service required approval of the Vice Chancellor, contending that such approval could arise only in the context of extension beyond the prescribed age of superannuation and could not curtail the prescribed age itself. The petitioner further invokes the doctrine of legitimate expectation, contending that, having been appointed in 2016 on the basis of the prevailing INC Guidelines, she

legitimately expected her service conditions to be governed by the statutory and regulatory framework applicable to Nursing faculty.

14 It is lastly contended that the petitioner has been subjected to hostile discrimination, as other teaching faculty are stated to have been permitted to continue up to 65 years while Nursing faculty have been retired at 60 years, rendering the classification arbitrary and violative of Articles 14 and 16 of the Constitution. The Tribunal is also alleged to have failed to appreciate the effect of recognition of the petitioner's past service rendered at SKIMS for retiral benefits and her appointment and administrative control by the University, which, according to her, disentitled the respondents from treating her as a University employee for one purpose while denying her the corresponding service conditions for another.

15 On the strength of the aforesaid grounds, the petitioner seeks quashing of the judgment and order dated 09.04.2026 passed by the Tribunal in T.A. No. 161/2024 and the retirement order dated 31.03.2026, with a direction to the respondents to permit her to continue in service in accordance with the age of superannuation claimed by her.

16. The respondents, *per contra*, have opposed the claim of the petitioner. Their stand, in substance, is that the petitioner belongs to a distinct cadre of Nursing faculty serving in a constituent Nursing College and that the conditions of service applicable to such faculty cannot be equated with those governing teachers appointed against posts in the teaching departments of the University. It is further contended that the retirement order has been passed strictly in accordance with the rules governing the petitioner's cadre and is consistent with the administrative practice followed by the University in respect of similarly situated Nursing faculty.

17 Heard learned counsel for the parties and perused the material on record.

18. The IUST was established by an enactment of the Legislature known as the Islamic University of Science and Technology Kashmir Act, 2005 ["the Act of 2005"]. The said Act, in itself, does not define a constituent College of the University. Section 14 of the said Act enumerates the matters regarding which statutes may be framed. The first Statutes were set out in the Schedule appended with the Act, with power conferred upon the Executive Council of the University to make new or additional statutes or amend or repeal the statutes. This is so provided in Section 15 of the Act.

19 There is no dispute that the petitioner, being a member of the teaching faculty of a constituent Nursing College, is governed by the IUST Act and the statutes made or framed thereunder. Statute 20 in the Schedule of Statutes deals with University Teachers. There is, of course, no separate reference to the Teachers of the constituent Colleges of the University. Statute 28 in the Schedule provides for the issuance of Ordinances for regulating various matters, including the number, qualifications, emoluments and the terms and conditions of service of Teachers of the University. This was the position under the Statutes contained in the Schedule which came to be issued as a part of the IUST Act in the year 2005. It seems that the Statutes of the University came to be amended from time to time. Chapter IV of the Statutes deals with the appointment and conditions of service of Teachers. Clause 5.4 is the relevant clause which, for facility of reference, is set out below:

"5.4 Limitation of age:

“An officer or teacher of the University shall retire from the services of the University on the last date of the month in which

he/she attains the age of sixty years, provided that nothing in this clause shall apply to the Vice Chancellor or to any person of high academic distinction and professional attainment with a specialized expertise and contractually appointed for a specific period by the University authorities.

A candidate shall make a declaration of his age to the Unvisited at the time of his entry into service, based on his matriculation or equivalent certificate. After the declaration of age and acceptance of the same by the University it shall be legally binding on him and no revision of age shall be allowed to be made, at a later date for any purpose whatsoever.

The age of entry into the service of the University shall not be less than twenty years for any employee. The upper age for entry into university service shall be same as prescribed by State Government from time to time.

Xxxxxxxx”

20 From a reading of Clause 5.4 of Chapter IV of the Statutes, it is clear that a Teacher of the University shall retire from the services of the University on attaining the age of 60 years. Similarly, Clause 5.18 reiterates that the teachers in the permanent whole-time service of the University shall retire on superannuation on completing the age of 60 years.

21 It seems that, later, the Statutes were amended, particularly Clauses 5.4 and 5.18, to provide the age of superannuation of the teachers as 65 years, but only with the assent of the Chancellor of the University which assent was never granted. It is further evident from the record that, in the exercise of emergency power conferred by Clause 3 (5) of the Schedule, the Vice Chancellor of the University took a decision enhancing the age of superannuation of teachers of the University from 60 to 62 years, subject to the approval of the competent authority, i.e. the Executive Council of the University. The matter was placed before the Executive Council in its 10th

meeting held on 4th July 2020. The agenda item ECM (10)12 dealt with the ratification of the actions taken by the V.C. in the exercise of powers vested in him under Clause 3 (5) of the Schedule of the Act (Items i to x). Item vii of this agenda item dealt with the age of superannuation of the IUST Teachers. The agenda item reads as under:

“vii. Age of superannuation in respect of IUST Teachers.

Islamic University of Science and Technology established in the year 2005 is relatively a young University with a pledge for academic and research excellence. The University is committed to be an agent of Social mobility. The University has seen tremendous growth in its short lifespan. The University, since its inception is continuously striving and making every possible effort to make IUST as a first choice of students to improves their lives. A high quality faculty dedicated to its Institution is the cornerstone in order to achieve all these endeavors.

Attracting and retaining high quality teachers is thus a primary requirement of an educational instituting. However attracting and retaining quality faculty has become a serious challenge for the University. The attrition rate has increased with the establishment of two Central Universities in the State and enhancement of age of superannuation by other Universities of the State . The age of superannuation at IUST is 60 years whereas the other State Universities including BGSBU, SKUAST(K), SKUAST(J) have enhanced it to 62 years and at the Central Universities it is 65 years.

To improve the job satisfaction of the teachers and help the University in attracting and retaining the quality faculty which would in turn help the University to realizes its vision and mission, the Executive Council in its 5th meeting held on 07.08.2014 approved the age of superannuation of teaching staff to 65 years subject to assent of Chancellor. However, the accept of Chancellor to the resolution of the Executive Council is pending before the Chancellor.

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22 From a reading of the agenda note (supra), it clearly transpires that, at the time of preparation of the agenda for the 10th meeting, the action

of the Vice Chancellor taken in exercise of the powers vested in him under Clause 3(5) of the Schedule of the Act with regard to enhancement of the age of superannuation of all the University teachers from 60 to 62 years was sought to be ratified by the Executive Council. Up to this stage, there was no distinction made between the teachers serving in the University campus and those serving in the constituent Colleges like the petitioner. However, while ratifying the action of the Vice Chancellor (supra), the Executive Council, which is the competent authority to take a decision in this regard, excluded the teaching faculty of constituent Colleges of the University from the benefit of enhanced superannuation age of 62 years. The decision of the Executive Council reflected in the minutes of meeting held on 4th July 2020 reads as under:

"ECM(10)12. To consider the ratification of the actions taken by Vice chancellor in exercise of powers vested in him under clause 3(5) of the schedule of the Act. (item i to x)

After discussing the agenda, the Council adopted the following resolution:

“Resolved that the actions taken by Vice Chancellor in exercise of powers vested in him under Clause 3(5) of the Schedule of the Act and mentioned in the Agenda ECM(10)12 Item i to x are confirmed”. In respect of agenda ECM (10) 12 (vii) (Age of superannuation in respect of IUST teachers, the age of superannuation of University Teachers from 60 to 62 years shall not be applicable to the Constituent Colleges of the University”.

23 In terms of the decision of the Executive Council (supra), the Registrar issued a follow-up order, i.e. University Order No. 68 (Est.) of 2020 Dated 11.11.2020, which order reads as under:

“Consequent upon the approval of Executive Council in its 10th Meeting held on 04.07.2020, sanction is hereby accorded to the confirmation of action taken by the Vice Chancellor in exercise of powers vested in him under 3(5) of the Schedule of IUST Act,

with regard to enhancement in the age of superannuation from 60 to 62 years in respect of University teachers to bring it at par with the superannuation age of University officers and other sister Universities of the J&K.

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24 From a reading of University Order dated 11.11.2020, it becomes abundantly clear that the order has been issued by the Registrar of the University only to give effect to the decision of the Executive Council taken in its 10th meeting held on 4th July 2020, but does not refer to the specific exclusion of the benefit of age of superannuation in respect of teachers of constituent Colleges. As a matter of fact, the order dated 11.11.2020 does not reflect completely and in its entirety the decision of the Executive Council. Be that as it may, the University Order dated 11.11.2020 has to be read in the light of the decision of the Executive Council taken on 4th July 2020 in its 10th meeting, which makes it clear beyond any pale of discussion that the age of superannuation of the teaching faculty of the University is 62 years. However, the teaching faculty of the constituent Colleges, like the petitioner, would not be entitled to the benefit of the enhanced age and shall retire on attaining the age of superannuation of 60 years. It is in compliance with this statutory provision that the respondent-University has retired the petitioner on attaining the superannuation age of 60 years. It also deserves to be mentioned that the Executive Council decision taken in its 10th meeting on 4th July 2020, as also the University Order dated 11.11.2020 (*supra*), were neither the subject matter of challenge before the Tribunal nor are they called in question before us.

25 In the absence of any specific challenge laid to the University Executive Council decision and the consequent University Order dated 11.11.2020, the petitioner was bound by the University Statutes as they existed at the time of her attaining the age of 60 years. As is clarified above, the age of superannuation of the teaching faculty of the constituent Colleges of the University at the time of retirement of the petitioner was 60 years. The University has thus committed no illegality in retiring the petitioner on attaining the age of 60 years.

26 Whether the classification of teachers of constituent Colleges of the University for the purpose of a lower age of retirement vis-à-vis their counterparts working in the University campus is legally permissible or not is not the subject matter of adjudication in this petition. Suffice it to say that the University followed the Statutes and retired the petitioner on attaining the age of 60 years and, therefore, the decision of the University cannot be found fault with on any ground, particularly on the grounds urged by the petitioner before the Tribunal as also before us. The Tribunal has elaborately dealt with the position with regard to the age of superannuation of teachers under the UGC Regulations of 2018, which prescribe the minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for standards in higher education. The Tribunal has also considered the regulations framed by the Indian Nursing Council and has come to the conclusion that, in the absence of adoption of these regulations by the University, no benefit of such regulations, if at all available, could be granted. We may not go into much detail on this issue for the reason that the retirement of the petitioner has been effected by the respondents as per the Statutes applicable at the time of superannuation of the petitioner. The age of

superannuation of the University teachers right from the beginning was 60 years. It was enhanced by the Executive Council to 65 years, but this was made subject to the assent of the Chancellor. The Chancellor never gave the assent. The Vice Chancellor, in exercise of the powers conferred upon him under Clause 3 (5) of the Schedule of the Act, raised the age of superannuation of all teachers of the University from 60 to 62 years, subject to ratification by the Executive Council. The matter was considered by the Executive Council in its 10th meeting held on 04.07.2020. The action taken by the Vice Chancellor was confirmed/ratified, subject to the condition that the benefit of enhanced age of superannuation from 60 to 62 years shall not be available to the teachers of the constituent Colleges of the University.

27 In view of the aforesaid clear position obtaining from the University Statutes, we are left with no option, but to go by the stand of the respondent- University that the petitioner was rightly retired on attaining the age of superannuation of 60 years.

28 For all these reasons, as also for the reasons indicated by the Tribunal in its elaborate judgment, we find no merit in this petition. The same is, accordingly, dismissed. The record, if any, be returned to the concerned.

(MOHD. YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
CHIEF JUSTICE(A)

JAMMU
11 .08.2026
SANJEEV

Whether judgment is reportable: Yes