

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2025
(Arising out of SLP(C) No.4178 of 2020)

A1 : MADAN MOHAN MALVIYA UNIVERSITY OF
TECHNOLOGY THROUGH ITS REGISTRAR

A2 : BOARD OF MANAGEMENT, MADAN MOHAN MALVIYA
UNIVERSITY OF TECHNOLOGY

A3 : REGISTRAR, MADAN MOHAN MALVIYA UNIVERSITY
OF TECHNOLOGY

APPELLANT(S)

VERSUS

R1 : DR. PRAMOD PRASAD

R2 : STATE OF UTTAR PRADESH

RESPONDENT(S)

O R D E R

Heard learned counsel for the parties.

2. Leave granted.

3. The challenge in the present appeal is to the impugned order by which the High Court had directed the appellant University to pay leave encashment to the private respondent.

4. In the present case, the private respondent was appointed in the Madan Mohan Malviya University of Technology, Gorakhpur in the year 1999 and thereafter, in the year 2013, the College

became a full-fledged University under the State. It is to be indicated here that both the College as well as the University were totally under the State Government and fully funded by it. In the meantime, by G.Os dated 13th April, 2000 and 20th August, 2015, a communication was made to various Colleges/Universities in which the appellant University was also named that there was no provision for leave encashment in the Government aided independent institution in the State and thus, they were directed to ensure to take necessary action accordingly.

5. Learned counsel for the appellants has submitted that under these instructions, the University was not in a position to extend the benefit of leave encashment to the private respondent as there was a specific bar to it under the aforesaid two G.Os Moreover, it was contended that as per Section 6 of the Uttar Pradesh Madan Mohan Malviya University of Technology Act, 2013 (hereinafter referred to as the "Act of 2013"), the University has the power to provide for the terms and conditions of service of the teachers and other members of academic or administrative staff appointed by the University with the approval of the State Government. It was submitted that till date, the State Government has not approved any scheme for payment of leave encashment.

6. *Per contra*, learned counsel for the respondents has submitted that the order impugned does not suffer from any infirmity.

7. Having considered the rival contentions, we are of the firm opinion that the order impugned needs no interference. Besides the fact that both the College as well as the appellant University, which is now a full-fledged University, were at every point of time fully under the State Government and also 100% financed by the State Government. Moreover, the fact that the G.Os came in the year 2000 and 2015 whereas the private respondent was appointed in the year 1999, his service conditions stand protected under the Act of 2013, especially sub-Section (4) of Section 4 of the Act of 2013, which stipulates as under:-

"4. On and from the commencement of this Act:-

.....

(4) every person employed by the Madan Mohan Malaviya Engineering College, Gorakhpur immediately before the commencement of this act shall hold his office or service in the University by the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund, and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or he has opted for the university's terms and conditions.

.....".

8. From the aforesaid, it is clear that on the date the private respondent joined employment under the then College there was no G.O., either denying or clarifying the position that leave encashment would not be payable to persons superannuating from service. This protection will in law will have to be extended to the private respondent and he cannot be denied the benefit of being paid leave encashment.

9. In the aforesaid background, since the service of the private respondent was protected under sub-Section (4) of Section 4 of the Act of 2013, we have no doubt that the impugned order passed by the High Court is justified.

10 Accordingly, the Civil Appeal stands dismissed.

11. Pending application(s), if any, shall stand disposed of

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[PRASHANT KUMAR MISHRA]

NEW DELHI
05th MARCH, 2025

ITEM NO.8

COURT NO.17

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).4178/2020

[Arising out of impugned final judgment and order dated 17-09-2019 in SPLAD No.564/2019 passed by the High Court of Judicature at Allahabad]

**MADAN MOHAN MALAVIYA UNIVERSITY OF TECHNOLOGY
THROUGH ITS REGISTRAR & ORS.**

Petitioner(s)

VERSUS

DR. PRAMOD PRASAD & ANR.

Respondent(s)

(IA No. 21086/2020 - EXEMPTION FROM FILING O.T.
IA No. 21087/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 20622/2022 (XI)

(I.R.)

Date : 05-03-2025 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA**

For Petitioner(s) Mr. Divyanshu Sahay, Adv.
Mr. Samar Vijay Singh, AOR
Ms. Sabarni Som, Adv.
Mr. Aman Dev Sharma, Adv.
Mr. Fateh Singh, Adv.

Mr. Amit Anand Tiwari, Sr. Adv.
Ms. Devyani Gupta, AOR
Ms. Tanvi Anand, Adv.

For Respondent(s) Mr. Rohit Amit Sthalekar, AOR
Mr. Purnendu Bajpai, Adv.
Mr. Shashank Singh, Adv.
Mr. Vineet Singh, Adv.

Ms. Pragya Agrawal, Adv.
 Mr. Mohd Faraz Anees, AOR
 Mr. Devesh Tripathi, Adv.
 Mr. Mukeshwar Nath Dubey, Adv.
 Mr. Karitk Vashisht, Adv.
 Ms. Epsita Agastya, Adv.
 Mr. Shantanu Shandilya, Adv.
 Mr. Ajay Kumar, Adv.
 Ms. Nabeena N Alikadli, Adv.
 Mr. Divesh, Adv.
 Mr. Anand, Adv.
 Mr. Shivendu Sharma, Adv.

Mr. Farrukh Rasheed, AOR
 Mr. Abu Bakr Sabbaq, Adv.
 Mr. Seraj Ahmad, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

SLP(C) No.4178 of 2020

Leave granted.

2. The Civil Appeal is dismissed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

SLP(C) No.20622 of 2022

As prayed for by learned counsel for the petitioners, three weeks' time is granted to file further affidavit which would include issues of facts relating to payment of leave encashment both as a general proposition in the State of Uttar Pradesh as also in the particular institution in question and whether the respondent no.1 is similarly situated to any person who has been granted such relief.

2. List on 02.04.2025.

(SAPNA BISHT)
 COURT MASTER (SH)
 (Signed order is placed on the file)

(RAM SUBHAG SINGH)
 ASSISTANT REGISTRAR