

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Reserved on 22.02.2024
Pronounced on 03.04.2024

(i) CWP-209-2017

Lakhwinder Singh Petitioner

Versus

Managing Director, Punjab Water Source
Management and Development Corporation and others Respondents

(ii) CWP-247-2017

Sukhwinder Singh Petitioner

Versus

Managing Director, Punjab Water Source
Management and Development Corporation and others Respondents

(iii) CWP-307-2017 (O&M)

Bishan Dass Petitioner

Versus

Managing Director, Punjab Water Source
Management and Development Corporation and others Respondents

CORAM: HON’BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Deepak Aggarwal, Advocate for the petitioner(s).

Mr. Aman Sharma, Advocate for the respondents.

NAMIT KUMAR, J.

1. This judgment shall dispose of CWP Nos.209, 247 and 307 of 2017, as common question of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP

No.209 of 2017.

2. The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a writ in the nature of mandamus directing the respondents to consider the 'Diploma in Civil Engineering' acquired by the petitioner from 'Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan', recognized for the purpose of promotion and to consider the petitioner for promotion to the post of Junior Engineer, further sought a writ of certiorari for quashing the letter dated 06.10.2015 (Annexure P-3).

3. The brief facts, as have been pleaded in the petition, are that the petitioner was appointed as Tube-Well Operator on 15.04.1986 and working as such with respondent No.3, with an additional charge of Junior Engineer. The petitioner, after obtaining necessary permission from his department, had completed 03 years diploma in Civil Engineering from 'Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan', in the year 2012 and he was awarded certificate by the said University declaring him pass. After acquiring the said diploma, the petitioner was entitled to be promoted to the post of Junior Engineer as the petitioner fulfills the qualification prescribed for promotion to the post of Junior Engineer. As per letter dated 05.04.2013, issued by All India Council for Technical Education, the above-said University, from where the petitioner has acquired his three year diploma in Civil Engineering, has not been approved for distance education mode in diploma. Thereafter, vide letter

dated 06.10.2015, respondent No.2 has written that the cases for promotion of the employees, who have passed 03 years diploma, be sent only, in case they are covered by the letter dated 05.04.2013 and as such, the respondents have withheld the promotion of the petitioner. Hence this petition.

4. Pursuant to notice of motion, short reply on behalf of the respondents has been filed, in which it has been stated as under :-

“3. xx xx xx xx

That it is respectfully submitted that the subject matter pertaining to the validity of above mentioned diploma courses is no longer res integra. This Hon’ble Court in CWP No.1640 of 2008 titled Kartar Singh versus Union of India held that diploma granted by above stated deemed University will not make a candidate eligible for appointment. The aforesaid Judgment was assailed by filing SLP before the Hon’ble Supreme Court and the Hon’ble Supreme Court while deciding a bunch of cases in AIR 2017 SC 5179 held that degrees of those students who were admitted after the Academic Sessions 2001-2005 from concerned deemed to be universities through distance education mode stand recalled and be treated as cancelled. However, the Hon’ble Supreme Court later clarified that the Judgment pertained to degree courses and not diplomas. In this way, the Judgment passed by this Hon’ble Court in Kartar Singh case is operative qua diplomas. Therefore the certificate of diploma of the petitioner is not valid and therefore the writ petition is liable to be dismissed as such.

xx xx xx xx xx”

5. Learned counsel for the petitioner submits that the

petitioner cannot be denied promotion on account of the fact that he has obtained his diploma from the Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan which is a deemed University and this has been so held in a judgment passed by this Court in ***CWP No.6243 of 2010 titled as 'Swaran Singh and others Vs. the Punjab State Electricity Board' decided on 27.01.2012.***

6. Per contra, learned counsel for the respondents, while referring to the reply filed, submits that the diploma obtained by the petitioner is through distance education mode from the Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan, which is not a recognized institution, therefore, the diploma granted by the above-said deemed University will not make the petitioner eligible for promotion. In support of his contention, learned counsel for the respondents has placed reliance upon the Division Bench judgment of this Court passed in ***CWP No.1640 of 2008 titled as 'Kartar Singh Vs. Union of India and others' decided on 06.11.2012.***

7. I have heard learned counsel for the parties and perused the relevant record with their able assistance.

8. Admittedly, the petitioner had done 03 years diploma in Civil Engineering from the Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan, in the year 2012. However, vide letter dated 05.04.2013, issued by All India Council for Technical Education, the above-said University has

not been approved for distance education mode in diploma and in view of the said letter, the respondents rejected the claim of the petitioner for promotion to the post of Junior Engineer.

9. While dealing with the same issue, the Hon'ble Division Bench of this Court in its judgment passed in ***Kartar Singh's case (supra)*** has held as under :-

“184. In terms of the directions of the Commission, it was necessary for the deemed to be Universities to seek approval from AICTE. In view of the above, we hold that the deemed to be Universities have started courses in technical education in violation of the guidelines, instructions, circulars and regulations framed by the Commission not only when they started such courses but also in establishing study centres outside their territorial limits and in subjects for which they were not granted deemed to be university status. Therefore, degrees awarded by such deemed to be Universities is an illegal act and such illegality cannot be removed or cured by the actions of either the Commission or DEC.”

10. The abovesaid judgment was challenged before the Hon'ble Supreme Court and the said case was tagged along with ***Civil Appeal Nos.17869-17870 of 2017 (arising out of SLP © Nos.19807-19808 of 2012) titled as 'Orissa Lift Irrigation Corporation Limited Vs. Rabi Sankar Patro and others' : 2018(1) SCC 468***. The Supreme Court, while taking into consideration the facts of ***Kartar Singh's case (supra)***, passed judgment dated 03.11.2017, wherein various directions were issued pertaining to degrees obtained in engineering awarded by the deemed to be Universities through distance

education mode. Subsequently, while dealing with the review applications, filed for clarification of the judgment dated 03.11.2017, Hon'ble Supreme Court, vide order dated 22.01.2018 passed in ***Orissa Lift Irrigation Corporation Limited Vs. Rabi Sankar Patro and others : 2018(2) SCC 298***, clarified that the controversy in the present case pertains to the validity of degrees in engineering conferred by the deemed to be Universities through distance education mode. The ratio of judgment passed in ***Kartar Singh's case (supra)*** has been relied upon by the Hon'ble Supreme Court with regard to Degrees in Engineering and the view taken by this Court has been held to be correct. As such, the controversy pertaining to diploma awarded by deemed University also stands settled.

11. Similar issue came up for hearing before the Coordinate Bench of this Court in ***CWP No.10850 of 2011 titled as 'Jasvir Singh and others Vs. State of Punjab and others' decided on 22.07.2022***, wherein it has been held as under :-

“The petitioners are seeking direction to the respondents to consider them for promotion to the post of Junior Engineer (Civil).

Learned counsel for the petitioners submits that the petitioners, who are working as Supervisors, had obtained diploma in Civil Engineering from Institute of Advanced Studies in Education (Deemed Univeristy, Sardarshahar, Rajasthan.

Learned counsel for the respondents while referring to the reply filed by the respondents states that the diploma obtained by the petitioners is through distance learning and not from a recognized institution. They had not sought any permission from the department nor taken any leave to pursue the diploma course.

Therefore, as the diploma obtained by the petitioner is through distance learning from non-recognized institution, I do not find any merit in the claim of the petitioners for consideration for promotion to the post of Junior Engineer.

Consequently, the petition stands dismissed.”

12. The judgment relied upon by learned counsel for the petitioner in *Swaran Singh’s case (supra)* is not applicable to the facts and circumstances of the present case as the facts of the said case are totally different. Even otherwise, the said judgment is per-incurrium as the Division Bench Judgment passed in *Kartar Singh’s case (supra)* has not been considered.

13. The diploma obtained by the petitioner is through distance learning from non-recognized institution and the petitioner has not produced any document whereby the State of Punjab has approved the Diploma certificate issued by the ‘Institute of Advanced Studies in Education Deemed University, Gandhi Vidya Mandir, Sardarshahr, Rajasthan’.

14. In view of the foregoing discussion, I do not find any merit in the claim of the petitioner for considering him for promotion to the post of Junior Engineer.

15. Consequently, the present writ petitions are dismissed.

16. Pending, applications, if any, shall stand disposed of accordingly.

03.04.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No