



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: 02.09.2025
Pronounced on: 09.09.2025

1)CWP-8363-2024 (O&M)

Sat Paul and others Petitioners

Versus

State of Haryana and others ...Respondents

2)CWP-16347-2023 (O&M)

Arun Singh and others Petitioners

Versus

State of Haryana and others ...Respondents

3)CWP-27694-2023 (O&M)

Rakesh Kumar and others Petitioners

Versus

State of Haryana and others ...Respondents

4)CWP-27853-2023 (O&M)

Bharat Singh and others Petitioners

Versus

State of Haryana and others ...Respondents

5)CWP-28200-2023 (O&M)

Daljit Singh and another Petitioners

Versus

State of Haryana and others ...Respondents



CORAM:HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karan Nehra, Advocate,
Mr.Reshabh Bajaj, Advocate and
Mr.Harvinder Thakur, Advocate
for the petitioners (in CWP-16347-2023,
CWP-27694-2023 & CWP-8363-2024).

Mr. Manish Kumar Singla, Advocate and
Ms.Bhoomika, Advocate
for the petitioners (in CWP-27853-2023).

Ms.Radha Singh, Advocate,
Mr.Shamsher Singh, Advocate and
Ms.Meena Singh, Advocate
for the petitioners (in CWP-28200-2023).

Mr.Baldev Raj Mahajan, Senior Advocate with
Ms. Nikita Goel, Advocate
for the respondent-Nigam (in CWP-28200-2023).

Mr.Baldev Raj Mahajan, Senior Advocate with
Mrs.Rajni Gupta, Advocate
for respondents No.2 to 4 (in CWP-8363-2024).

Mr.Dharam Pal Saini Advocate
for the private respondents (in CWP-8363-2024).

Mr.Baldev Raj Mahajan, Senior Advocate with
Mr.Jagbir Malik, Advocate and
Ms. Nikita Goel, Advocate
for respondents No.2 to 4 & 7 (CWP-16347-2023),
for respondents No.2 to 4 (in CWP-27694-2023) and
for respondents No.2 to 4 & 7 to 10
(in CWP-27853-2023).

Mr.NitinKaushal, Advocate and
Mr.Sahil, Advocate for the respondent (AICTE).

Mr. Sunil K. Nehra, Advocate,
Mr.RahilMahajan, Advocate and
Mr.AnujChaudhary, Advocate



for respondents No.7 to 9, 12 & 13,
17 to 20, 22 to 34 and 36 to 39 (in CWP-8363-2024).

Mr.Inderpal Singh, Advocate for
Mr.NitinKaushal, Advocate
for respondent No.5.

Mr.Mazlish Khan, Advocate
for respondent No.15 (in CWP-8363-2024).

HARPREET SINGH BRAR, J.

1. This common order shall dispose of all the
aforementioned civil writ petitions as they arise from a similar
factual matrix. However, for the sake of brevity, the facts are
taken from CWP-8363-2024.

2. The present civil writ petition(s) has been filed under
Articles 226/227 of the Constitution of India for issuance of a writ
in the nature of *certiorari* for quashing office order
No.66/EOM/G-129 dated 23.02.2024 (Annexure P-35) and office
order No.67/EOM/G-129 dated 23.02.2024 (Annexure P-36),
wherein, the private respondents have been promoted *de hors* the
applicable Service Rules, in view of instructions dated 29.12.2004
(Annexure P-1), upon misinterpretation of the judgment passed by
the Hon'ble Supreme Court of India in ***Institution of Mechanical
Engineers (India) Through Its Chairman v. State of
Punjab, 2019 SCC Online SC 1023*** (hereinafter 'IME case') and
judgment dated 29.08.2023 passed by this Court in CWP



No.12344 of 2022 titled as *Bharat Singh Vs. State of Haryana.*

FACTUAL BACKGROUND

3. Briefly, the facts are that a promotion avenue was carved out for the employees of the respondent-Haryana Power Generation Corporation by office order dated 29.12.2004 (Annexure P-1) which reads as follows:

“In exercise of Powers conferred under clause (c) of Section 79 of the Electricity (Supply) Act, 1948, read with Haryana Electricity Reforms act, 1997, and all other enabling powers in the this behalf, Haryana Power Generation Corporation Limited is pleased to amend Sr. No. A-6 & B- 7 of the Recruitment and Promotion Policy of Thermal Staff notified vide office order No. 2845/Cadre dated 27.05.85 and modified vide office order no. 2878/Cadre dated 7.8.85 and further notified vide notification No. 9/Reg-129/L-I/A dated 3.2.99.

*(A) Operation Staff
6. Operator Grade-1*

xxx xxx xxx

b) 15% posts shall be filled up by promotion on seniority cum merit basis from amongst feeder cadres namely Operator Grade-II, Plant Attendant Grade-I, Plant Attendant Grade-II, Helper "Grade-I and Helper Grade-II. Possessing the qualification of BE/AMIE/In Electrical/Mechanical/Electronics Engineering or three years Diploma in Engineering provided they have three years service experience on the above posts in HPGC...

xxx xxx xxx

*B) Maintenance Staff:
7. Foreman Grade-II*

b) 15% posts shall be filled up by promotion seniority cum merit basis form amongst feeder cadres Foreman Grade-II,



Foreman Grade-IV. Technician Grade-I, Technician Grade-II, Helper Electrical/Mechanical/Electronics Engineering or three years Diploma holder in engineering Grade-1 and Helper Grade-II. possessing the qualification of provided they have three years service experience on the above post in the HPGC...”(emphasis added)

4. Accordingly, the petitioners, who were appointed as Plant Attendants Grade-II/Technician-II, were promoted to the posts of Operator Grade-I/Foreman Grade-II, respectively, under the 15 % posts demarcated in this regard. In order to meet the required qualification, the petitioners took a leave without pay and enrolled in a regular diploma course. Some of the petitioners spent three years out of service as they acquired the diploma before joining.

5. However, the private respondents, enrolled in distance learning programme offered by respondent No.6-Institute of Mechanical Engineers (IME). The course provided by IME did not require attendance but allowed students to appear in examination to obtain a qualification advertised as equivalent to a degree in Mechanical Engineering. Respondent-IME was initially derecognised but subsequently, recognised to a limited extent vide notification dated 24.11.2016 (Annexure P-3). The matter of promotion of private respondents was kept pending as it was subject to the result of the litigation initiated with respect to the



validity of the qualifications issued by respondent-IME. When the litigation arrived at its natural conclusion, the respondent-Corporation promoted the private respondents. However, the promotion of the petitioners was reversed in order to make room for them. As such, it is the grievance of the petitioners that the private respondents gained an advantage over them in spite of the fact that they do not possess the requisite educational qualifications for promotion in terms of office order dated 29.12.2004 (Annexure P-1).

CONTENTIONS

6. Learned counsel for the petitioner(s) *inter alia* contended that the respondent-Corporation has erred in extending the benefit arising out of the ***IME case(supra)*** to private respondents, retrospectively, in spite of the fact that they are not eligible for the said promotion in terms of the criterion set out in terms of instructions dated 29.12.2004 (Annexure P-1). The instructions dated 29.12.2004 (Annexure P-1) are statutory in nature as they have been issued by the respondent-Corporation by invoking Clause (c) of Section 79 of the Electricity (Supply) Act, 1948 read with Haryana Electricity Reforms Act, 1997 and therefore cannot be superseded by impugned instructions dated 19.12.2023 (Annexure P-37) being non-statutory. The following



qualification was provided for filling 15% posts by promotion on seniority-cum-merit basis amongst different feeder cadres:

“Possessing the qualification of B.E./AMIE in Electrical/Mechanical/Electronics Engineering or 03 years diploma in Engineering provided they have three yearsexperience on the above posts in the feeder cadre.” (emphasis added)

7. Learned counsel further submitted that the benefit is granted to the private respondents is based on incorrect interpretation of the *IME case (supra)*, *de hors* the applicable service rules as 03-year regular diploma has been equated to a 1.5-year certificate course offered by respondent-IME through a distance educationprogramme. Further, it has been the stand ofrespondent-IME that it does not provide any education by conducting regular classes but only allows its students to write necessary examinations, while the petitioners have obtained their diplomas by attending a regular course which is more rigorous in nature and covers all requisite fields of technical education. Despite the fundamental difference between the two, the private respondents have been promoted, in contravention of the instructions dated 29.12.2004 (Annexure P-1). In doing so, the respondent-Corporation has greatly prejudiced the petitioners as the private respondents have been allowed to steal a march over



themas their promotion has been reversed, despite the fact that the private respondents do not meet the criterion of 03 years diploma in Engineering.

8. Furthermore, the Director General, Technical Education, Department, State of Haryana, had issued a notification dated 19.07.2013 (Annexure P-9) whereby it was reiterated that the degrees and diplomas obtained through distance education mode, not recognised by the joint committee of All India Council for Technical Education(AICTE)/University Grants Commission(UGC) and Distance Education Council (DEC),shall not be considered to be valid for selection or promotion in State Technical University and Government Engineering Colleges in the State of Haryana.Moreover, the AICTE, being a regulator, had issued a public notice (Annexure P-10) clarifying that qualifications acquired the field of Engineering and Technology through distance education mode are not recognised by it. The matter was examined by theHon'ble Supreme Court in ***Orissa Lift Irrigation Corporation Ltd. v. Rabi SankarPatro and others 2017 (4) SCT 683***wherebyone time relaxation was granted only to protect the individuals who had already availed the benefits accrued by virtue of the said qualification, however, it was held that the same cannot be used to seek further benefits in service.



Additionally, a public notice dated 23.02.2018 (Annexure P-14) was issued by the UGC stating that programmes like engineering that require hands-on training are not permitted to be offered under open and distance learning modes.

9. He further contended that admittedly, respondent-IME does not hold regular classes for technical education and the candidates are granted the said certificate simply upon passing the examinations conducted by it. This issue has been raised before the Constitutional Courts on various occasions. However, at no point of time, did the State of Haryana or the Technical Education Board, Haryana recognize these certificate courses offered by respondent-IME nor did it carry out any amendments in the instructions dated 29.12.2004 (Annexure P-1). As a matter of fact, no order or instructions have ever been issued by the State of Haryana or the Department of Technical Education granting equivalence to these certificates with the regular diplomas/degrees.

10. Further still, learned counsel submitted that this Court in CWP No.1640 of 2008 titled as *Kartar Singh v. Union of India and others* and in CWP No.3727 of 2008 titled as *Vikas Kumar v. State Pollution Control Board and others* has examined the validity of the certificates issued by respondent-



IME and concluded the degrees in certificates and membership granted by it cannot be treated as equivalent to a degree in Engineering as respondent-IME does not have a permanent recognition from any council or board to conduct these courses. The aforesaid judgments were also upheld by the Hon'ble Supreme Court of India in **SLP (c) No. 35793-96 of 2012** titled as ***Vijay Kumar and others etc.v. Kartar Singh and others etc.*** The AICTE and thereafter, the UGC have consistently taken a stand that the Engineering degrees obtained by way of open distance learning are not recognized and they shall not be granted *ex post facto* approval, as discernible from Annexures P-7 and P-8.

11. However, in ***IME case(supra)***, the Hon'ble Supreme Court created a one-time exception in case of the Central Government Employees inasmuch that the certificates awarded by respondent-IME to candidates enrolled upto 31.05.2013 were allowed to be considered equivalent to a Degree in Mechanical Engineering for the purpose of employment in Central Government. Learned counsel for the petitioner(s) submitted that while misinterpreting the judgement in ***IME case(supra)***, the Chief Secretary, Government of Haryana, has acted beyond his authority and issued notification/instructions dated 19.12.2023 (Annexure P-37) whereby the benefits of the Diplomas/Degrees



awarded by professional bodies/institutions duly recognised by the Ministry of Human Resource Development upto 31.05.2013 are valid for the students enrolled therein upto 31.05.2013.

12. A consistent stand has been taken by the State against recognising engineering qualifications obtained through distance learning, as indicated by instructions and notifications issued by it (Annexures P-1, P-9, P-10, P-13, P-16 & P-17). A deviation was made for the first time vide impugned instructions dated 19.12.2023 (Annexure P-37), whereby equivalence has been granted to the certificates granted by institutes like respondent-IME, without carrying out any amendment in the Rules. Further, the inquiry carried out by the respondent-Corporation in this regard also remained inconclusive and left the decision qua validity of said qualification to the Court, as discernible from Annexure P-24.

13. With regards to the issue of grant of retrospective benefit to the private respondents, learned counsel for the petitioner(s) placed reliance on the decision of the Hon'ble Supreme Court in *Ashok Kumar v. Depinder Singh Dhesi* (2019) 8 SCC 280, wherein the Court clarified that the directions in the *Orissa Lift (supra)* were intended to restore *status quo ante*, i.e., restore the benefits that candidates were already enjoying on the



date of passing of the judgment and not to confer any additional advantage. It was argued that the intention of the Court has never been to provide retrospective benefits to individuals who have obtained their degrees through a distance education programme. The one-time exemption granted by the Hon'ble Supreme Court cannot be misinterpreted to provide benefits to distance education diploma holders retrospectively. Reliance in this regard is also placed on the judgement rendered by the Division Bench of this Court in *Jagdish Rai Singla v. State of Haryana, 2023 NCPHHC 39806*.

14. *Per contra*, Mr. Baldev Raj Mahajan, Senior Advocate submitted that the dispute with respect to validity of the certificates awarded by respondent-IME only arose in the year 2016 and a clarification was sought. Accordingly, the Department of Technical Education issued a letter dated 27.07.2006 (Annexure R-2/3) whereby it was reiterated that diplomas/degrees that have recognition from the Government of India shall also be recognised by the Government of Haryana. Learned Senior counsel emphasised specifically that the impugned instructions dated 19.12.2023 (Annexure P-37) is wholly and solely based upon the judgment of the Hon'ble Supreme Court in *IME case (supra)*. Further, it is not the case of the petitioner(s) that



the said instructions are tainted by *malafide* or arbitrariness. Additionally, the following stand was taken in the written statement filed by respondents No.2 to 4:

“5. That it is most humbly submitted that show cause notices were issued to the petitioners dated 11.02.2021 (Annexure P-21), in view of clear provisions contained in their promotion orders which is reproduced as under:-

"The above promotions have been made on the clear understanding that if there is any senior person(s) to them, they are liable to be reverted to their original post of Operator Grade-II without any notice to make room for senior person(s)."

Although, as per the condition mentioned in promotion order no notice was necessary, however, following the principle of natural justice notices were served upon to petitioners.

As per record, no objections have been made by the petitioners against the aforesaid clause mentioned in their promotion orders till the institution of this writ petition.

The answering respondent took action in line with the judgment dated 13.08.2019 of the Hon'ble Apex Court in Civil Appeal no. 17922/2017 titled as IME Vs State of Punjab and others and Haryana Government notification no. 42/703/2019-5GS-I dated 31.01.2020 clarified that AICTE in its 52nd Emergent Meeting held on 03.08.2017 decided to recognize equivalence for all purposes including higher education and employment to technical courses conducted by various professional bodies/institutions which were duly recognized by the MHRD with permanent recognition upto 31st May, 2013. Thus, all those students who were enrolled with these institutions with permanent recognition up to 31.05.2013 stand recognized."

15. Learned counsel for the private respondents submitted that the diplomas were obtained by the private respondents prior



to the year 2013 and therefore, is not affected by **IME case(supra)**. Further, in terms of the notification dated 06.12.2012(Annexure P-6)by the Ministry of Human Resource Development, these certificates are valid.He further referred to paragraph 4 of the **IME case (supra)**, which reads as follows:

“4. On 26.05.1976, the Government of India, Ministry of Education and Social Welfare, Department of Education, on the recommendation of Board of Assessment for Educational Qualifications provisionally recognized "a pass in the Associate Membership Examination of the Mechanical Engineers Association of India at par with a degree in Mechanical Engineering from a recognized Indian University/Institution for the purpose of recruitment to superior posts and services under the Central Government for a period of three years." On 06.10.1981 the Government of India, Ministry of Education and Culture, Department of Education, on the recommendation of Board of Assessment for Educational Qualifications, decided to continue to recognize a pass in AMIE of the appellant for the purpose of recruitment to superior posts and services under the Central Government.”

16. He further submitted the issue in **IME case(supra)** pertained to engineering degrees and not diplomas. As such, the diplomas of the private respondents are not adversely affected by **IMEcase(supra)**.Additionally, the private respondents received their diplomas prior to the year 2013 Further, the argument with regard to the course duration being three years, does not hold any force in view of the judgment rendered by this Court in **CWP No.12187 of 2006** titled as **Sunil Kumar &Ors. v. State of**



Haryana. Moreover, the private respondents are senior to the petitioners and therefore, their promotion is justified. Lastly, some of the private respondents have already retired, and it would be wholly unjust to withdraw the benefits already granted to them, much prior in time.

OBSERVATIONS& ANALYSIS

17. Having heard learned counsel for the parties and after perusing the record with their able assistance, the following questions arise for adjudication:

- (i) *Whether the judgment rendered by the Hon’ble Supreme Court in **IME case(supra)** is ipso facto applicable to State government employees in the absence of any statutory mandate or specific directions by the Court?*
- (ii) *Whether statutory instructions dated 29.12.2004 (Annexure P-1), can be superseded by executive instructions dated 19.12.2023 (Annexure P-37), without amending the eligibility criteria?*
- (iii) *Whether the benefits arising out of executive instructions dated 19.12.2023 (Annexure P-37) can be conferred retrospectively?*

• **INTERPRETATION OF THE “*IME’s case (supra)*”**

JUDGMENT

18. The seminal issue presented before this Court revolves around interpretation of the judgment rendered by the Hon’ble Supreme Court in the **IME case (supra)**, and if it can be construed as an imprimatur with respect to the correctness of the impugned



decisions taken by the respondent-Corporation. It transpires that the respondent-Corporation has granted benefit of promotion to the private respondents by upsetting the long-standing settled seniority of the petitioners, in view of the *IME case(supra)*, five years after its pronouncement. Tritely, a judgment must be interpreted in the context of the facts of the specific case presented before the Court, without reading into it more than what is expressly stated. It is neither appropriate nor permissible to isolate a word or a sentence from a judgment, detached from the context of the issue being addressed, and treat it to be the complete law in itself. Instead, a judgment must be read as a whole, and any observations made therein ought to be understood in relation to the questions that were actually under consideration. A two-Judge bench of the Hon'ble Supreme Court in *Oriental Insurance Company Limited v. Rajkumar and Ors (2007) 12 SCC 768*, speaking through Justice Arijit Pasayat, J, made the following observations in this regard:

“11. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and



isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates - (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is 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 flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See *State of Orissa v. Sudhansu Sekhar Misra and Ors.*, (AIR 1968 Supreme Court 647) and *Union of India and Ors. v. Dhanwanti Devi and Ors.*, (1996(6) SCC 44). **A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In *Quinn v. Leatham*, (1901) AC 495 (H.L.), Earl of Halsbury LC observed 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 are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.**

12. 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 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, (1951 AC 737 at p.761), Lord Mac Dermot observed :

“The matter cannot, of course, be settled merely by treating the ipsissimavertra 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.”

13. *In Home Office v. Dorset Yacht Co., (1970(2) All England Reporter 294) Lord Reid said, “Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances.” Megarry, J in (1971)1 WLR 1062 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 Herrington v. British Railways Board, (1972(2) WLR 537) Lord Morris said:*

“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 made in the setting of the facts of a particular case.”

14. **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.**

15. *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 Cordozo) 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.”

“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 plea is to keep the path to justice clear of obstructions which could impede it.”” (emphasis added)

19. Further, a three-Judge bench of the Hon’ble Supreme Court in ***Bharat Sanchar Nigam Limited v. GhanshyamDass, (2011) 4 SCC 374***, speaking through Justice A.K. Patnaik, opined as follows:

“13. The principle laid down in K.I. Shephard (supra) that it is not necessary for every person to approach the court for relief and it is the duty of the authority to extend the benefit of a concluded decision in all similar cases without driving every affected person to court to seek relief would apply only in the following circumstances:

a) Where the order is made in a petition filed in a representative capacity on behalf of all similarly situated employees;

b) Where the relief granted by the court is a declaratory relief which is intended to apply to all



employees in a particular category, irrespective of whether they are parties to the litigation or not;

c) Where an order or rule of general application to employees is quashed without any condition or reservation that the relief is restricted to the petitioners before the court; and

d) Where the court expressly directs that the relief granted should be extended to those who have not approached the court.

On the other hand, where only the affected parties approach the court and relief is given to those parties, the fence-sitters who did not approach the court cannot claim that such relief should have been extended to them thereby upsetting or interfering with the rights which had accrued to others. In *JagdishLal and others v. State of Haryana and others* 1998(1) S.C.T. 26 : (1997) 6 SCC 538., the appellants who were general candidates belatedly challenged the promotion of Scheduled Caste and Scheduled Tribe candidates on the basis of the decisions in *Ajit Singh Januja v. State of Punjab* 1996(2) S.C.T. 278 : (1996) 2 SCC 715., *Union of India v. Virpal Singh Chauhan* 1995(4) S.C.T. 695 : (1995) 6 SCC 684. and *R.K. Sabharwal v. State of Punjab* 1995(2) S.C.T. 646 : (1995) 2 SCC 745. and this Court refused to grant the relief saying :

“....this Court has repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or Article 32 of the Constitution. It is not necessary to reiterate all the catena of precedents in this behalf. Suffice it to state that the appellants kept sleeping over their rights for long and elected to wake up when they had the impetus from *VirpalChauhan* and *Ajit Singh* ratios. **But VirpalChauhan and Sabharwal cases, kept at rest the promotion already made by that date, and declared them as valid; they were limited to the question of future promotions**



given by applying the rule of reservation to all the persons prior to the date of judgment in Sabharwal case which required to be examined in the light of the law laid in Sabharwal case. Thus earlier promotions cannot be reopened. Only those cases arising after that date would be examined in the light of the law laid down in Sabharwal case and VirpalChauhan case and equally Ajit Singh case. If the candidate has already been further promoted to the higher echelons of service, his seniority is not open to be reviewed. In A.B.S. KaramchariSangh case a Bench of two Judges to which two of us, K. Ramaswamy and G.B. Pattanaik, JJ. were members, had reiterated the above view and it was also held that all the prior promotions are not open to judicial review. In Chander Pal v. State of Haryana a Bench of two Judges consisting of S.C. Agrawal and G.T. Nanavati, JJ. considered the effect of VirpalChauhan, Ajit Singh, Sabharwal and A.B.S. KaramchariSangh cases and held that the seniority of those respondents who had already retired or had been promoted to higher posts could not be disturbed. The seniority of the petitioner therein and the respondents who were holding the post in the same level or in the same cadre would be adjusted keeping in view the ratio in VirpalChauhan and Ajit Singh; but promotion, if any, had been given to any of them during the pendency of this writ petition was directed not to be disturbed....” (emphasis added)

As such, with respect to the present case, the conclusion drawn by the Hon’ble Supreme Court in the *IME case* (*supra*) ought not to be understood as blanket permission for its blind and mechanical application, devoid of context and nuance.

A judgment is not akin to a universally applicable principle that,



as if following the simplistic notion of ‘*what is good for the goose is good for the gander.*’

20. In order to ascertain the intention of the Hon’ble Supreme Court in *IME case(supra)*, a contextual study is imperative. Therefore, a reference may be made to the notification dated 06.12.2012(Annexure P-6)issued by the Ministry of Human Resource Development that gave rise to the controversy therein; the same is reproduced below:

“In modification of Order F.No. 11-15/2011-AR (TS.II) dated 10.07.2012 and to facilitate the institutions during transition period; following decision has been taken In the Ministry:

(i) Above order dated 10.07.2012 regarding cases of recognition In perpetuity for equivalence in Central Government job, stands withdrawn.

(ii) All those students who are enrolled with the institutions with permanent recognition upto 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/ order in force pertaining to their course for equivalence in Central Government jobs. However, these concerned orders will cease to have effect from 01.06.2013 onwards.

(iii) After 31.05.2013, based on the review by the regulator i.e., AICTE, a decision on continuation of the certification of equivalence of degree/ diploma shall be taken by statutory regulator,

(iv) Statutory regulators should review the fresh proposals/ extension as per their statute and regulations.



2. In case, the institution desires to opt for realigning curriculum with NVEQF, It is advised to use this transition period upto 30.05.2013 for necessary action in this regard.

This issues with the approval of the Competent Authority.”
(emphasis supplied)

21. This Court is of the considered opinion that the Ministry of Human Resource Development granted recognition and equivalence to the certificates issued by respondent-IME vide the notification dated 06.12.2012(Annexure P-6), exclusively for the purposes of employment under the Central Government. In light of the aforesaid notification (Annexure P-6), a two-Judge bench of the Hon'ble Supreme Court in *IME case(supra)*, speaking through Justice U.U. Lalit, made the following observations:

“40. The point in question was again dealt with in the Order dated 22.01.2018 in paras 23 and 24 and it was stressed that conferral of degrees in Engineering through distance education mode was never approved in principle by AICTE. The appellant does not even claim to be imparting any education through distance education mode and only conducts bi-annual examination and awards certificates to those who qualify such examination. Considered in the light of the decision of this Court in Orissa Lift Irrigation Corporation case, the learned Amicus Curiae is right in his submission that the case of the appellant would be on a footing lower than the cases of deemed to be Universities as dealt with in that decision.

41. The consistent stand of the appellant has been that it is not covered under any of the Acts viz. the UGC Act, Indira



Gandhi National Open University Act, 1985 and the AICTE Act. However, since it offers courses or programmes of technical education, as rightly held by the High Court, the appellant comes within the definition of "technical institution" as defined in the AICTE Act. Neither does the appellant, on its own grant Degrees in Engineering nor does it, in its capacity as an affiliated institution to a recognized University, prepare students in courses leading to Degrees in Engineering. Though it does not impart any instructions either in theory or in practical, it holds an examination, on satisfactory clearance of which it awards Certificates of Membership to candidates. The question is whether such Certificate could, as a matter of law, be recognised as equivalent to a Degree in Mechanical Engineering from a recognised Indian University? Nothing is clear as to under what statutory regime or under which legal provision can such equivalence to the Certificate issued by the appellant be granted or conferred. No statutory provision has been pressed into service or relied upon to suggest that given the particular circumstances and/or, on satisfaction of certain parameters the appellant would be entitled to conferral of such equivalence or status.

xxx

xxx

xxx

47. Consequently, *neither can the appellant claim, as a matter of right to be entitled to confer any degree nor can it claim that Certificate awarded by it must be reckoned to be equivalent to a Degree in Mechanical Engineering.*

xxx

xxx

xxx

49. *However, the fact remains that the equivalence to the Certificates awarded by the appellant was granted by the MHRD in consultation with AICTE upto 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the Central Government and Public Notice issued by AICTE in August, 2017. These communications also indicate that all those students who were enrolled upto 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in course. Though we*



have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a Degree, an exception needs to be made in favour of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the concerned orders granting equivalence would cease to have any effect.

50. In the circumstances we do make an exception in favour of such candidates enrolled upto 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The Certificate awarded by the appellant to such candidates enrolled upto 31.05.2013 shall be considered equivalent to a Degree in Mechanical Engineering for the purpose of employment in Central Government.” (emphasis added)

22. Palpably, the Hon’ble Supreme Court in *IME case (supra)* has clarified that respondent-IME does not possess any valid regulatory mandate to impart technical education. Rather, the judgment rendered by the Division bench of this Court in *Kartar Singh v. Union of India, 2012(4) SCT 741* has been affirmed while holding that respondent-IME cannot confer degrees as a matter of right, nor can it claim that the certification granted by it must be reckoned to be equivalent to a Degree in



Mechanical Engineering. Further, the exception created in favour of central government employees, who have claimed benefits in service on the basis of certificates awarded by respondent-IME, by prescribing a cut-off date i.e. 31.05.2013, is primarily based upon the notification dated 06.12.2012 (Annexure P-6) issued by the Ministry of Human Resource Development.

23. Further still, the Hon'ble Supreme Court has perceptibly observed that respondent-IME does not claim to provide technical education through distance learning by conducting regular classes; rather, it merely conducts bi-annual examinations and issues certificates to those who pass. As such, when viewed in light of the ruling of the Hon'ble Supreme Court in the *Orissa Lift(supra)*, respondent-IME stands on a significantly lower footing compared to the deemed-to-be universities considered therein.

24. While purportedly relying on the *IME case (supra)*, the Chief Secretary of Government of Haryana issued the impugned instructions dated 19.12.2023 (Annexure P-37), whereby the Diplomas/Degrees awarded by professional bodies/institutions duly recognised by the Ministry for Human Resource Development upto 31.05.2013 were declared to be valid



with respect to the students enrolled upto 31.05.2013. In view of the said executive instructions(Annexure P-37), the respondent-Corporation ordered the reversion of the petitioners to their feeder posts, as the private respondents, IME diploma holders, became eligible to claim the promotion they previously were ignored for. As such, the private respondents were promoted retrospectively,with effect from the year 2013 i.e. when they were supposed to be originally considered, and in doing so, they attained seniority over the petitioners

25. It is evident that the Hon'ble Supreme Court did not intend to equate the certificates issued by respondent-IME with degrees or diplomas for all individuals and a limited one time exception was carved out for central government employees, by setting a cut-off date in terms of the notification dated 06.12.2012 (Annexure P-6). It was never intended that the same may be used as a precedent to create further exceptions. Any other elucidation and import is clearly erroneous as *ratio decidendi* of a judgment must be culled out from reading it in its entirety and not from a part thereof. Therefore, this Court is of the considered opinion that the Chief Secretary has erred in issuing impugned instructions dated 19.12.2023 (Annexure P-37), as any other



interpretation contrary to the one adopted and intended by the Hon'ble Supreme Court in *IME case(supra)*, would fall foul of the law laid down therein. Further, the promotion granted to the private respondents at a belated stage, by undoing the same for the petitioners, amounts to a violation of the spirit and purpose of the judgment rendered in *IME case (supra)*. It is inconceivable that the Hon'ble Apex Court intended for it to be interpreted in a manner that would result in stripping the petitioners of the benefits legitimately accrued to them in terms of instructions dated 29.12.2004 (Annexure P-1), as they possess valid three-year regular diplomas in engineering. This Court cannot allow the private respondents to steal a march over the petitioners on the basis of certificates obtained from respondent-IME, which has consistently failed the judicial scrutiny of constitutional courts in the cases of *Kartar Singh (supra)*, *Orissa Lift (supra)*, and *IME (supra)*.

26. Further, the stand of the private respondents is self-contradictory as they have claimed that *Orissa Lift (supra)* and *IME (supra)* are not applicable to diplomas while also seeking benefit of the said judgments by seeking equivalence with a three-year degree, in order to fulfill essential qualification for promotion



in terms of instructions dated 29.12.2004 (Annexure P-1). Such an approach cannot be permitted to a party to the proceedings to approbate and reprobate and adopt two contrary stands taken before different *fora*.

27. The fulcrum of the argument of the learned counsel for the private respondents rests on the semblance of identity and similarly circumstanced position, inasmuch as the Hon'ble Supreme Court has clarified in ***Orissa Lift (supra)*** that the judgment would not be applicable to diplomas, and that they fulfil the essential qualification as set out in instructions dated 29.12.2004 (Annexure P-1), having acquired their diplomas prior to 31.05.2013 in terms of ***IME (supra)***. The argument advanced by learned counsel for the private respondents that their case is squarely covered by ***Orissa Lift(supra)*** and ***IMEcase(supra)*** is erroneous and wholly unacceptable. The private respondents cannot be allowed to claim a vested right of promotion, purportedly arising from an alleged defect regarding validity of their educational qualifications, at the cost of the petitioners, who were unjustly deprived of their merited benefit. Further, there must be certainty *ex-post* litigation in light of established precedent to eliminate ambiguity. By misinterpreting the clear and



unambiguous *ratio decidendi* of **IME case (supra)**, the respondent-Corporation cannot be allowed to unduly expand the scope and implications thereof. This Court must necessarily reject the rationale adopted by the respondent-Corporation as mechanical application of the said judgment to this particular factual matrix, that too after a significant delay, is wholly unjust.

**• PRECEDENCE OF STATUTORY INSTRUCTIONS
OVER EXECUTIVE INSTRUCTIONS**

28. It must be noted that instructions dated 29.12.2004 (Annexure P-1) are statutory in nature while the impugned instructions dated 19.12.2023 (Annexure P-37), are executive in nature. Executive or administrative instructions do not have the authority to amend, override, or supplement statutory rules, nor can any such instructions be issued in derogation of the statutory framework. This is for the reason that administrative directions, being non-statutory in character, do not carry the force of law. On the contrary, statutory instructions, framed under the authority of an enabling statute, have the binding force of law, provided they are consistent with and not repugnant to the parent Act. Thus, while statutory rules occupy the field with full legal sanctity, mere executive instructions cannot operate to curtail, modify, or expand



their scope.(Reference in this regard can be made to *State of U.P. v. Babu Ram Upadhyaya*, AIR 1961 Supreme Court 751; *B.N. Nagarajan v. State of Karnataka*, AIR 1979 Supreme Court 1676; *State of Tamil Nadu v. M/s. Hind Stone*, AIR 1981 Supreme Court 711); *P.D. Aggarwal v. State of U.P.*, (1987)3 SCC 622 : (AIR 1987 Supreme Court 1676); *State of Maharashtra v. Jagannath Achyut Karandikar*, AIR 1989 Supreme Court 1133; *State of Madhya Pradesh v. G.S. Dall & Flour Mills*, AIR 1991 Supreme Court 772; *C. Rangaswamaiah v. Karnataka Lokayukta*, 1998(3) RCR (Criminal) 547 : AIR 1998 Supreme Court 2496).

29. The Hon'ble Supreme Court in *IME case (supra)* has also emphasized the importance of the fact that the power to grant equivalence must be exercised in accordance with the relevant statutory provisions. Speaking through Justice U.U. Lalit, the following was held:

“41. In the present case, the communication dated 26.05.1976 under which the Certificate issued by the appellant was recognized to be equivalent to a Degree in Mechanical Engineering from a recognized Indian University, does not indicate any statutory provision under which such equivalence could be granted or conferred. This point becomes more crucial, as after the enactment of AICTE Act, the entirety of the field concerning "technical



education" is kept in the domain of AICTE by the Parliament. Section 10 of the AICTE Act entitles AICTE not only to lay down norms and standards for courses, curriculum and such other facets of "technical education" but also entitles it under clause (l) to advise the Central Government in respect of grant of charter to any professional body or institution in the field of technical education conferring powers, rights and privileges etc. **Going by the width of the power, after the enactment of AICTE Act, even such privileges could be conferred only after express advice of AICTE and within the confines of various statutory provisions.**" (emphasis added)

30. Accordingly, this Court finds merit in the argument of the learned counsel for the petitioner(s) that the Respondent-State cannot grant any recognition or equivalence on its own without the mandate of the Haryana State Board of Technical Education Act, 2005 (hereinafter 'Act of 2005'). The impugned instructions dated 19.12.2023 (Annexure P-37) neither refers to any recommendation by the Academic Committee nor to any decision of the Haryana State Board of Technical Education. As per Section 22 of the Act of 2005, the Academic Committee is specifically empowered to make recommendations to the Board on matters of equivalence of qualifications. It is on the basis of such recommendations that the Board of Technical Education is required to grant equivalence. Therefore, the impugned



notification is of a non-statutory nature and lacks any legal backing.

31. Also, the Chief Secretary, Government of Haryana, is not the competent authority to issue any form of validation or equivalence for any Diploma/Degree/Certificate, as this function lies solely within the domain of the Directorate of Technical Education, Haryana. The grant of equivalence through non-statutory instructions cannot override the instructions issued dated 29.12.2004 (Annexure P-1), which were adopted pursuant to a decision taken by the Board of Directors of the Corporation under the power conferred by Section 79(c) of the Electricity (Supply) Act, 1948.

- **RETROSPECTIVE APPLICATION AND LEGISLATIVE REPAIR**

32. The Hon'ble Supreme Court in *Ashok Kumar v. Depinder Singh Dhesi (2019) 8 SCC 280* has clarified that the intention of the Hon'ble Supreme Court has never been to provide a retrospective benefit to individuals who have obtained their degrees or diplomas through the process of distance education. The Apex Court while taking a sympathetic view has only granted a one-time exemption to the individuals who were already employed in the Central Government to not be reverted back. The



judgements cannot be misinterpreted to grant retrospective benefits to distance education diploma holders.

“14. It was, therefore, clear that the candidates who, on the strength of such degrees awarded through distance education mode, had attained a particular level in their career or were enjoying certain benefits as on the date of the Judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] and if they pass the examination, those benefits would stand restored. If the candidates could clear the examination in the first attempt itself, there would not even be any break in continuous enjoyment of those benefits or facilities. The idea was, candidates should not stand deprived of the status that they were enjoying as on the day of the Judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] provided the candidates could prove their worth and ability.

15. But if, the candidates concerned had not attained any particular status, as on the date when the Judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] was passed, the width of the directions was not to confer any additional advantage which was not even enjoyed as on the date. It was not the idea to hold the candidates to be entitled to certain additional benefits which the candidates were, as a matter of fact, not even enjoying on the date of the judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] .If the degrees stood restored in terms of the directions in the Judgment [Orissa Lift Irrigation Corpn.Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] and the Order [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 2 SCC 298 : (2018) 1 SCC (L&S) 289] , the candidates would certainly be eligible to such entitlements as are available in accordance with law, but “restoration” would only be of those benefits, which they



were enjoying as on the date of the Judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] . In short, the intent was to restore status quo ante and not to confer any additional advantage by the Judgment [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 1 SCC 468] and the Order [Orissa Lift Irrigation Corpn. Ltd. v. Rabi SankarPatro, (2018) 2 SCC 298 : (2018) 1 SCC (L&S) 289].” (emphasis added)

33. It is settled law that what cannot be done directly also cannot be done indirectly (See:*State of Tamil Nadu and Others v. K. Shyam Sunder and Others, (2011) 8 SCC 737; Jagir Singh v. Ranbir Singh, (1979) 1 SCC 560*). Therefore, this Court is of the opinion that equivalence can be granted solely within the confines of the statutory provisions of the Act of 2005. Such an attempt is not permissible and could not be achieved on account of the technical or legal defect even through legislative repair by retrospective application as laid down in the judgment rendered by a three-Judge bench of the Hon’ble Supreme Court in the case of *S.R. Bhagwat v. State of Mysore, (1995) 6 SCC 16*. Speaking through Justice S.B. Majumdar, it was held that a binding judicial pronouncement cannot be made ineffective by exercise of such legislative power. The relevant part is reproduced below:

“12. It is now well settled by a catena of decisions of this Court that a binding judicial pronouncement between the parties cannot be made ineffective with the aid of any legislative power by enacting a provision which in



substance overrules such judgment and is not in the realm of a legislative enactment which displaces the basis or foundation of the judgment and uniformly applies to a class of persons concerned with the entire subject sought to be covered by such an enactment having retrospective effect. We may only refer to two of these judgments.”

34. The aforementioned position of law has also been approved by a Full Bench of this Court in ***Kaka v. Hassan Bano, 1998(1) RCR(Criminal) 484***. Speaking through Justice Swatanter Kumar, the following was held:

“28. ...This rule is however, subject to a well recognised principle that the benefits acquired under the existing rules cannot be taken away by an amendment with retrospective effect, that is to say, there is no power to make such a rule under the proviso to Article 309 which affects or impairs vested rights. Therefore, unless it is specifically provided in the rules, the employees who are already promoted before the amendment of the rules cannot be reverted and their promotions cannot be recalled. In other words, such rules laying down qualifications for promotion made with retrospective effect must necessarily satisfy the test of Articles 14 and 16(1) of the constitution : State of Mysore v. M.N. Krishna Murty, (1973) 2 SCR 575 : AIR 1973 Supreme Court 1146, B.S. Yadav v. State of Punjab, (1981) 1 SCR 1024 : AIR 1981 Supreme Court 561, State of Gujarat v. RamanlalKeshavlalSoni, (1983) 2 SCR 287 : AIR 1984 Supreme Court 161 and KC Arora v. State of Haryana, (1984) 3 SCR 623: 1984 Lab. IC 1015.”

- **DELAYED DISTURBANCE CAUSED TO SETTLED SENIORITY**

35. The High Court, when exercising its powers under Article 226 of the Constitution of India, has the authority to



examine the full facts and circumstances of a case and issue appropriate orders to ensure complete and substantial justice to the parties involved. This extraordinary jurisdiction is exercised in accordance with the principles of equity. A fundamental purpose of equity is to uphold honesty and fair conduct. Therefore, if a party has obtained an unfair advantage prior to approaching the High Court, the Court may consider such advantage and require the party to relinquish it before any relief is granted. Resultantly, it has to be held that the benefits given to the private respondents can be withdrawn.

36. Inconvenience in the form of financial outlay or the difficulty of recasting seniority holds little weight, particularly when rectifying an accidental defect serves to uphold the broader principles of justice and merit. The issue involved in the present case is well-settled and cannot be allowed to remain subject to uncertainty *ex-ante*, especially when no alternative, reasonable view is tenable. The Hon'ble Supreme Court in ***Union of India and another v. Narendra Singh,(2008) 2 SCC 750***, speaking through Justice C.K. Thakker, observed as follows:

*“28. It is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. **But, we cannot countenance the submission***



of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. In Indian Council of Agricultural Research & Anr. v. T.K. Suryanarayan & Ors., 1997 (4) SCT 156: (1997) 6 SCC 766, it was held that if erroneous promotion is given by wrongly interpreting the rules, the employer cannot be prevented from applying the rules rightly and in correcting the mistake. It may cause hardship to the employees but a court of law cannot ignore Statutory Rules.”

37. Further, it is settled law that petitions disputing the long-standing seniority filed at a belated stage should be rejected inasmuch as they seek to disturb the vested rights of other persons. Reliance can be placed on the Judgements of the Supreme Court in *Malcom Lawrence Cecil D'Souza v. Union of India and Ors.*, (1976) 1 SCC 599, and *K.R. Mudgal v. R.P. Singh*, (1986) 4 SCC 531, and *B.S. Bajwa and Anr. vs. Union of India*, (1998) 2 SCC 523. The Supreme Court cautioned that in service matters, the issue of seniority should not be re-opened after a reasonable period has passed, as doing so unsettles an established position without any justifiable cause. In the present case, the respondents could have raised their objection for the first time when the seniority list was prepared and circulated. They cannot be permitted to disturb the settled position at such a belated stage after 11 years.



CONCLUSION

38. In view of the foregoing discussion, the questions framed above are answered in the following terms:

- (i) The judgment rendered by the Hon'ble Supreme Court in *IME case(supra)* is not *ipso facto* applicable to State government employees in the absence of any statutory mandate or specific directions by the Court.
- (ii) The statutory instructions dated 29.12.2004 (Annexure P-1), cannot be superseded by executive instructions dated 19.12.2023 (Annexure P-37), without amending the eligibility criteria.
- (iii) The benefits arising out of executive instructions dated 19.12.2023 (Annexure P-37) cannot be conferred, retrospectively.

39. Accordingly, all the captioned petitions are allowed. The impugned orders i.e. office order No.66/EOM/G-129 dated 23.02.2024 (Annexure P-35) and office order No.67/EOM/G-129 dated 23.02.2024 (Annexure P-36) as well as instructions dated 19.12.2023 (Annexure P-37) are hereby set aside and the respondents are directed to restore all consequential benefits to the petitioner(s).



40. In the interest of justice, equity, and fair play, it is further directed that the seniority of the petitioners, some of whom were promoted as early as 30.01.2013, shall not be disturbed at this belated stage. Accordingly, it is directed that the private respondents shall be placed below the last promoted petitioner or similarly situated promotees. This Court is satisfied that the decision of the respondent-Corporation to revert the petitioners to their feeder posts is patently irrational, unjust, and prejudicial to them.

41. In order to do complete justice, and in case of non-availability of the posts on which private respondents could have been promoted, the respondents may create supernumerary posts to accommodate them on notional basis without disturbing the settled seniority of petitioners who were promoted earlier in time.

42. All the pending miscellaneous application(s), if any, shall stand disposed of.

43. A photocopy of this order be placed on the files of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

09.09.2025

yakub

Whether speaking/reasoned
Whether reportable

:Yes/No

: Yes/No