

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.12791 of 2015

Date of Decision: July 01, 2015

Union of India and others

.....Petitioners

versus

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.P.C.Goyal, Advocate, for the petitioners.
Mr.Ajay Nara, Advocate, for
Mr.Shailendra Sharma, Advocate,
for respondent Nos.2 to 4.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

Union of India and the Engineering Wing of Ministry of Defence have laid challenge to the order dated 17.09.2014 passed by Central Administrative Tribunal, Chandigarh Bench, whereby they have been directed to consider the claim of respondent Nos.2 to 4 for promotion to the post of Junior Engineers from the date their juniors were promoted though subject to final outcome of the SLP (Civil) Nos.35793-35796 of 2008 (Vijay Kumar and others versus Kartar Singh and others) pending in the Hon'ble Supreme Court.

[2] Notice of motion.

[3] Mr.Ajay Nara, Advocate, for Mr.Shailendra Sharma,
Advocate accepts notice on behalf of respondent Nos.2 to 4.

[4] Since the facts are not in dispute, learned counsel for the parties have rightly submitted that no written statement or additional pleadings are required.

[5] We have heard learned counsel for the parties and gone through the record.

[6] The short question that arises for consideration is whether respondent Nos.2 to 4 possess the requisite recognized qualification prescribed for promotional posts of Junior Engineers?

[7] It is an admitted fact that respondent nos.2 to 4 joined the petitioner-department as Electricians/Fitter General Mechanics. They are in possession of technical qualification of diploma in Electric Engineering which they are said to have obtained from Janardhan Raj Nagar Vidyapeeth-a deemed University at Udaipur (Rajsthan).

[8] A Division Bench of this Court in Kartar Singh and others versus Union of India and others (CWP No.1640 of 2008), decided on 06.11.2012, has held that if a person is not having the requisite technical qualification from recognized University or Institution then such a person cannot get the benefit of technical/higher qualification to secure service benefits. In that very judgment, the diploma/degree of technical qualification awarded by a deemed University like the one mentioned above, were declared to be invalid and unrecognized.

[9] In the light of the above-cited decision whereby the diploma in Electric Engineering possessed by respondent Nos.2 to 4 stood de-recognized, the petitioner-authorities ignored them for promotion while their juniors (proforma respondents) were promoted. The aforesaid action of the

authorities prompted respondent Nos.2 to 4 to approach the Tribunal.

[10] It was brought to the notice of the Tribunal that the Division Bench judgment of this Court is sub-judice before the Apex Court in SLP (Civil) Nos.35793-35796 of 2008 Vijay Kumar and others versus Kartar Singh and others wherein an interim order to the effect that the students, whose degrees and diplomas have been declared null and void by the High Court in the impugned order, may apply for either employment or for admission if the cut-off date is going to expire.....”, has been passed.

[11] Relying upon the interim order, the Tribunal has disposed of the Original Application with a direction to the petitioners to consider respondent Nos.2 to 4 for promotion from the date their juniors were promoted provided that respondent Nos.2 to 4 are otherwise eligible and also subject to final outcome of the SLP, referred to above.

[12] Since the Hon'ble Supreme Court has not stayed operation of the judgment passed by this Court and the interim order merely enables the students possessing the disputed qualification, to apply for employment or for admission, the action of the authorities in not promoting respondent Nos.2 to 4 on the basis of such qualification per se won't call for any interference. In such like situation, equities can be well balanced with a direction that if the qualification possessed by respondent Nos.2 to 4 is declared valid by the Apex Court, in that event, they shall be entitled to promotion from the date their juniors were promoted with all consequential benefits.

[13] We, thus, allow this writ petition in part and modify the order dated 17.09.2014 passed by the Tribunal, to the extent that if the Hon'ble Supreme Court recognizes the diploma awarded by the deemed University-in-question and consequently respondent Nos.2 to 4 are held to be in possession of valid qualification, in that case the direction issued by the Tribunal shall be given effect within a period of one month from the date of decision of the Hon'ble Supreme Court and respondent Nos.2 to 4 shall be entitled to all the consequential benefits including arrears of pay and seniority from the date their juniors were promoted. For the aforesaid purpose, respondent Nos.2 to 4 shall not be required to obtain fresh directions from the Tribunal or this Court.

[14] Ordered accordingly.

[15] Dasti.

[SURYA KANT]
JUDGE

July 01, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE