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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4281/2016 with CM APPL. 18062/2016

UNION OF INDIA & ORS

..... Petitioners

Through: Mr. R.V Sinha, Mr. A.S. Singh and
Mr. Amit Sinha, Advocate for the
petitioners.

versus

PARAMJIT SINGH

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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06.12.2018

None appears for the respondent when the matter is called out. The submission of Mr. Sinha is that the claim of the respondent was premised on his averment that he had obtained a Engineering degree from Janardhan Rai, Rajasthan Vidyapeeth University – a deemed university established under Section 3 of the UGC Act, 1956 vide notification dated 12.01.1987 of the Govt. of India. He had claimed that he had completed 8 years of regular service on 29.01.2010 and, therefore, he claimed he was eligible to be considered for promotion to the post of Executive Engineer (E).

Mr. Sinha submits that the engineering degree obtained by the respondent is not a valid degree in the light of the judgment of the Supreme Court in *Orissa Lift Irrigation Corporation Ltd. v. Rabi Sankar Patro & Ors.*, (2018) 1 SCC 468, since the respondent claimed to have obtained the

said degree through distance education.

We find that this defence was not raised by the petitioner before the tribunal. It has been raised for the first time before this court. Before the tribunal, the submission of the petitioner was that no vacancy was available in the promotional post.

On the last date, the respondent had sought an adjournment to take instructions after pursuing the judgment of the Supreme Court in *Orissa Lift Irrigation Corporation Ltd.* (supra).

On a perusal of the said judgment, particularly paras 9, 27.11 onwards and the operative part of the judgment contained in para 66.7, it appears to us that the issue whether the respondent had engineering degree from a recognised institution would require consideration. The recruitment rules for the concerned post would also have to be gone into. This exercise has not been undertaken by the tribunal, since this aspect was never raised before the tribunal. Pertinently, the judgment of the Supreme Court in *Orissa Lift Irrigation Corporation Ltd.* (supra) was rendered on 03.11.2017, whereas the impugned order was passed on 18.03.2015. Consequently, we set aside the impugned order and remand the case back to the tribunal for consideration of the issue with regard to the educational qualification now raised by the petitioner.

List the matter before the tribunal on 17.01.2019.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 06, 2018 sr