

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No. 14657 of 2018
Date of Decision: October 01, 2019

Ramesh Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ranjit Singh Kalra, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana,
for the State.

Mr. Tarun Vir Singh Lehal, Advocate,
for respondent No.3.

AMIT RAWAL, J.

The sole question which arises for consideration in the present case is as to whether the respondent authorities can revert the petitioner from the post of PGT (Physical Education) to TGT, the previous post held by him on the premise that his degree of Post Graduation is from Institute of Advance Studies, i.e., Deemed University.

The question raised in this case came to be pondered upon by this Court in various writ petition lead case **Civil Writ Petition No.7626 of 2015 Gurmail Kaur and others Versus State of Haryana and another, decided on 27.05.2015**, wherein while noticing the contentions of the State and as well as the petitioners and implementation of the judgment of the

Division Bench in **Kartar Singh Versus Union of India, 2012 (4) SCT**

741, whereby the technical professional course including the Ph.D. and M.Phil was held to be not recognized by the aforementioned University. This Court in **Gurmail Kaur (supra)** by negating the argument of the State, allowed the writ petitions by directing the respondents to issue appointment letters which were withheld to the persons who had taken the benefit of the Graduation or Post Graduation for the purpose of seeking employment or appointment.

It is being contended that the aforementioned judgment was assailed by the State in LPA No.1215 of 2015 which has been withdrawn in August, 2019. In this case, the petitioner was enrolled as TGT (Physical Education). While undergoing his job, obtained the permission from the department to obtain higher education of Post Graduation in Physical Education. Permission was granted vide letter dated 12.03.2008, Annexure P-9 (colly) for the Session 2007-2008 undertaken by the Deemed University, i.e., Institute of Advanced Studies in Education (Deemed University) Sardarshahr, Rajasthan.

Mr. Ranjit Singh Kalra, learned counsel for the petitioner relied upon the intimation by Director (Admn) of University Grants Commission dated 14.10.2013 (Annexure P-5) on the subject of equivalence of degrees awarded by Open and Distance Learning Institutions, whereby the question with regard to non-recognition or non-equivalence of degrees for the purpose of promotion and employment may not be proved to be deterrent having held to be recognized.

The stand of the respondents has been on two counts, (1) the petitioner has obtained the Master Degree from distance mode and was not enrolled in the University Campus but through study centre of the Deemed

University and (2) copy of the letter dated 21.07.2017 of the University Grants Commission, whereby it communicated that no Institute is authorized to offer technical and professional programmes including M.Phil and Ph.D through distance mode. It further clarified that it is the prerogative of the concerned employer/university/institution to take a view in respect of suitability of qualification acquired through distance mode.

Mr. Harish Nain, learned Assistant Advocate General, Haryana representing the State submitted that Deemed University was accorded sanction for the academic year 2007-2008, but there was no further recognition to offer any programme through distance mode and justified the impugned order.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of the learned counsel for the petitioner.

This Court, while considering the contentions of the parties in CWP No.7626 of 2015 in Paragraphs 13 and 14 held as under:-

“13. No doubt, the Division Bench of this Court, while deciding the question posed before it, as to whether the degrees in respect of technical course/professional course awarded by the aforementioned Universities, has held that the same are not valid on the premise that the Deemed University can only start study centre outside the headquarters in the area where there is reasonable consideration of students but such study centre cannot be established beyond the territorial limits represented at the time of grant of such status in the Memorandum of Association except with the permission of the UGC and the State Government where the study centre is to be located and since the aforementioned Universities had never obtained the permission from the Commission or the State Government before opening the study centre, therefore, the

qualification possessed from the aforementioned Universities cannot be treated to be valid, but the fact remains that the aforementioned judgment has been assailed by the effected party in the Hon'ble Supreme Court and as per interim order dated 14.12.2012, the Hon'ble Supreme Court, as an interim measure, clarified that the students, whose Degrees and Diplomas have been declared null and void, may apply for either employment or for admission. In view of the stand taken in paragraph 4 of the reply (reproduced above), this Court is made to believe that the State is denying the issuance of appointment letters to the petitioners on the premise that the interim directions apply only to those petitioners, who are before the Hon'ble Supreme Court and sought permission for admission or employment on the basis of the above qualification. The aforementioned reply rather goes against the State for the simple reason that Kartar Singh's judgment is only applicable to those persons who had approached the Hon'ble Supreme Court and, thus, in essence the judgment rendered in Kartar Singh's case is not the judgment in rem but in personam and, therefore, the petitioners are entitled to issuance of appointment letters. However, conversely in case this Court is made to believe that the interim order is only applicable to those who had approached the Supreme Court and not to the present petitioners, then I would disagree with the aforementioned contention/submission on the premise that once in the impugned letter dated 18.1.2014, the respondent State has taken a stand that the persons, who had obtained the degrees from the aforementioned Universities, shall not be called for counselling, much less, issued any appointment letter owing to the matter being subjudice before the Hon'ble Supreme Court, therefore, for all intents and purposes, the judgment in Kartar Singh's case (supra) is the judgment in rem and not in personam.

14. The clarification issued by the UGC on 13.10.2014 does not require any interpretation for the reason that the

Government of India vide its Gazette Notification dated 1.3.1995 had decided that all the qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature shall be automatically recognized. Even otherwise also, the letter dated 1.8.2014 issued by the UGC clearly envisages that all the Universities from where the students have obtained their academic qualifications in various subjects through study centres are recognized, though the matter is subjudice before the Hon'ble Supreme Court. The alleged discrimination on the part of the respondent-State does not stop here inasmuch in regard to the petitioners who had challenged the imposition of condition of exemption from sitting in the test, i.e., HTET/STET. The matter has been taken to the Hon'ble Supreme Court and despite pendency of the Special Leave Petition, vide Annexures P-17 and P-18, the candidates had been issued the appointment letters by putting a condition that the "appointment shall be subject to the final outcome of the Special Leave Petition", thus, the respondent-State has shackled the fate of petitioners in not following the said procedure by issuing the appointment letters to the petitioners. The relevant portion of the condition imposed in appointment letter in regard to the matter pending against the judgment rendered in Shivani Gupta's case is extracted herein below:-

"The appointment will be subject to the final outcome of SLP No.7820 of 2013 and other connected SLPs pending for adjudication in the Hon'ble Supreme Court of India, CWP No.18693, 20344, 17656 of 2012 pending in Hon'ble Punjab and Haryana High Court."

It is a matter of record that Letters Patent Appeal (LPA) filed by the State has been withdrawn. It is conceded position on record that the petitioner has obtained Post Graduation. Relevant portion of the letter dated 14.10.2013 (Annexure P-5) of the University Grants Commission reads as

under:-

“The Registrar/Director
of All the Indian Universities
(Deemed, State, Central Universities/
Institutions of National Importance)
Subject: Equivalence of Degrees awarded by Open and
Distance Learning (ODL) Institutions at par with Conventional
Universities/Institutions.

Sir/Madam,

There are a number of Open and Distance Learning
Institutions (ODLIs) in the country offering Degree/Diploma/
Certificate programmes through the mode of non formal
education. These comprise Open Universities, Distance
Education Institutions (either single mode or dual mode) of
Central Universities, State Universities, Deemed to be
Universities, Institutions of National Importance or any other
Institution of Higher learning recognized by Central/State/
Statutory Council/Societies registered under the Society
Registration Act 1860.

2. A circular was earlier issued vide UGC letter F1 No-
52/2000(CPP-II) dated May 05, 2004 (copy enclosed)
mentioning that Degrees/Diplomas/Certificates/awarded by the
Open Universities in conformity with the UGC notification of
degrees be treated as equivalent to corresponding awards of
the traditional Universities in the country.

3. Attention is also invited to UGC circular No.F1-25/93
(CPP-II) dated 28th July 1993 (copy enclosed) for recognition
of degrees and diplomas as well as transfer of credit for
courses successfully completed by students between the two
types of universities so that the mobility of students from Open
University stream to traditional universities/institutions is
ensured without any difficulty.

4. The Government of India, in exercise of its power
conferred under section 20(1) of UGC Act 1956, issued
directions dated 29th December 2012 entrusting UGC with the

responsibility of regulating higher education programme in open and distance learning (ODL) mode. Consequently, Universities/Institutions desirous of offering any programme through distance mode would require recognition of UGC.

5. *As you are aware, the Government of India has envisaged a greater role for the Open and the Distance Education System. The envisioned role may be fulfilled by recognizing and treating the Degrees/Diplomas/Certificates awarded through distance mode at par with the degrees obtained through the formal system of education. Open and Distance Education System in the country is contributing a lot in expansion of Higher Education and for achieving target of GER, without compromising on quality. Non recognition/non equivalence of degrees of ODL institutions for the purpose of promotion/employment and pursuing higher education may prove a deterrent to many learners and will ultimately defeat the purpose of Open and Distance Education.*

6. *Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/Certificate of the traditional Universities/institutions in the country.”*

The aforementioned letter has not been recalled and even the order dated 21.07.2017 (Annexure R-II) nowhere debars the post graduation degree obtained by the petitioner except that any Deemed University is not authorised to offer any programme including M.Phil and Ph.D through distant mode. The petitioner in the present case has not done the Ph.D but reverted from the post of PGT (Physical Education) to TGT on the premise that the higher qualification was obtained from the Deemed University, which is wholly preposterous and repugnant.

Accordingly, the order dated 09.05.2018 (Annexure P-4) is hereby set-aside and writ petition stands allowed.

October 01, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No