

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.18233 of 2018 (O&M)

Date of decision:22.10.2019

Jaswinder Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vishal Sharma, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G.Haryana.

Ms. Bahar Ghuman, Advocate for
Mr. Prateek Mahajan, Advocate
for respondent no.2.

Mr. Anil Kumar, Advocate for
Mr. Harkesh Manuja, Advocate
for respondent no.3.

Mr. S.K.Nehra, Advocate
for respondents no.4 and 5.

Mr. Tarun Sharma, Advocate for
Mr. P.S.Jammu, Advocate
for respondent no.6.

AMIT RAWAL J. (Oral)

The claim of petitioner in present writ petition is that respondent no.4 did not hold the degree of Junior Engineer through Distance Education/Service Centre, recognized in law and such type of degrees have already been nullified by the Hon'ble Supreme Court in **Vijay Kumar and others Vs. Kartar Singh and others 2018(1) SCC 468.**

Mr. Vishal Sharma, learned counsel appearing on behalf of the petitioner submits that respondent no.4 joined as Junior Engineer on 24.09.2010 on the basis of Diploma. He obtained the degree in B.Tech (Electrical) in 2008. Prior to that, he was working in the department of PWD B&R, Haryana. The respondent-department i.e. Haryana State Agricultural Marketing Board has given the benefit of 10 years' service to him. When the information was sought from the aforementioned department whether any permission was obtained to attend the classes of Junior Engineer, the answer was in negative, thus, such degree was a waste paper. Vide Annexure P-14, application dated 08.07.2013 was submitted for improvement in the degree, therefore, there was no occasion for him to apply for the same as he was already holding a degree, thus, case of promotion of respondent no.4 in view of the gradation list was totally illegal and erroneous.

Per contra, Ms.Bahaar Ghuman and Mr. Sunil K. Nehra, learned counsel appearing on behalf of respondents no.2, 4 and 5 respectively submitted that respondent no.4 during the pendency of writ petition as per chances given by Hon'ble Supreme Court in **Orissa Lift Irrigation Corp. Limited vs. Rabi Sankar Patro and others 2017(6) SLR 249** has availed the second chance and obtained the degree, vide Annexure R-4/17. Respondent-department has already implemented the judgment on the premise by notifying that candidates who cleared the test after availing two chances, benefits acquired would be restored to them. Accordingly, the same were restored vide order dated 22.02.2019 (Annexure R-4/10), thus,

urged this Court arguments of Mr. Vishal Nehra, Advocate no longer subsist and prayed for dismissal of writ petition.

I have heard learned counsel for the parties and appraised the paper book. During interregnum, supervening facts have occurred in present writ petition i.e. the certificate (Annexure R-4/17) and restoration of benefits (Annexure R-4/10) though have not been challenged.

It is a matter of record that respondent no.4 was not only reverted but even benefits were also withdrawn and having availed the chances, the same have been restored, in tandem with the order of Hon'ble Supreme Court clarified in Annexure R-4/6 which reads thus:

“We, therefore, as a one-time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who, in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct:-

a] All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

b] This facility is given as one-time exception so that those who have the ability and can pass the test in the first attempt itself, should not be put to inconvenience. If

the candidates pass in such first attempt, they would be entitled to retain all the advantages. But if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

c] We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this Order. AICTE shall however extend the time to exercise the option to appear at the test suitably.

8] Except for the directions given in the preceding paragraph i.e. paragraph 7 and the clarification as regards courses leading to award of diplomas as mentioned hereinabove, we reject all the other submissions.

9] All applications, petitions and writ petitions stand disposed of in aforesaid terms. No costs.”

Thus, contention of Mr. Vishal, Advocate qua restoration of benefits, though is not under challenge, is hereby rejected. Apart from this, in such circumstances, I am of the view that promotion of respondent no.4 is in

consonance with Entry 27 of Haryana State Agricultural Marketing Rules 2008, in tandem as respondent no.4 falls in the sub-category of 40% under category of 60%.

In view of findings hereinabove, writ petition stands dismissed.

No further order is required to be passed in C.M.Nos.6583 and 7330 of 2019 for impleadment and thus, the same have been rendered infructuous and disposed of as such.

	(AMIT RAWAL)
	JUDGE
October 22, 2019	
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No