

(229) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.7310 of 2017 (O&M)

Date of decision: 08.04.2019

Sukhdev Sharma

.... Petitioner

Versus

State of Haryana and others

.... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Vikram Sheoran, Advocate for the petitioner.
Mr. Harish Rathee, Sr. DAG, Haryana.
Mr. Saurabh Bajaj, Advocate for the applicants in CM No.3639
of 2019.

B.S. WALIA, J. (ORAL)

[1] Writ petition has been filed seeking quashing of orders dated 03.05.2011 and 08.01.2016 (Annexures P2 and P3) vide which the B.Tech. (Electrical) qualification acquired by the petitioner through Distance Education mode from Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur has not been considered as recognized qualification. Prayer is that the respondents be directed to consider the B.Tech. (Electrical) qualification acquired by the petitioner through Distance Education mode from Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur as a recognized qualification as was done in the case of co-employee Kashmir Chand Kamboj s/o Shri. Sahib Ditta Kamboj, Junior Engineer, who is also having B.Tech. qualification from the same University as the petitioner and who has been considered eligible. Prayer has also been made for the

issuance of a writ of Mandamus for directing the respondents to consider the claim of the petitioner for promotion to the post of SDE (Electrical).

[2] Learned counsel for the petitioner states that in paragraph No. 47 of the decision in **Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro and others, AIR 2017 SC 5179**, Hon'ble the Supreme Court has held that if a candidate who enrolled for a degree through distance education mode during the academic years 2001-2005, clears the test/tests to be held as per directions in the judgment within the stipulated period of time, then all the benefits admissible to such candidate would be restored.

[3] Learned counsel for the petitioner states that in view of the petitioner having qualified the test conducted by the AICTE, he is entitled to be considered for promotion to the post of SDE (Electrical) with effect from the due date.

[4] Learned Sr. DAG, Haryana on the other hand contends that the petitioner qualified the test conducted by the AICTE in terms of the decision of Hon'ble the Supreme Court in Orissa Lift Irrigation Corp. Ltd.'s case (Supra) in the second attempt and in view of the decision of Hon'ble the Supreme Court in the aforementioned case, the claim of the petitioner for promotion can be considered only with effect from the date he qualified the test conducted by the AICTE.

[5] In view of the position as noted above, the writ petition is disposed of by directing the respondents to consider the claim of the petitioner for promotion to the post of SDE (Electrical) in accordance with the decision of Hon'ble the Supreme Court in Orissa Lift Irrigation Corp. Ltd.'s case (Supra) within a period of three months from the date of receipt of certified copy of this order and to pass orders as may be warranted in the

facts and circumstances of the case.

[6] Needless to mention, the Competent Authority shall also take into account the clarification issued by Hon’ble the Supreme Court in MA Nos.1795-1796 of 2017 in Civil Appeals Nos.17869-17870 of 2017 in case titled as Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro and others on 22.01.2018 while deciding the claim of the petitioner.

[7] Since the main case has been disposed of, all pending C.M. applications stand disposed of.

08.04.2019
amit

(B.S. Walia)
Judge

1. Whether speaking/reasoned

:

Yes/No.
2. Whether reportable

:

Yes/No.