

CWP-520-2018 (O&M)

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

CWP-520-2018 (O&M)

Date of decision : 17.07.2019

Subhash Chander

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

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

AMIT RAWAL, J. (ORAL)

The petitioner has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing respondents to include the name of the petitioner in the seniority list of Degree Holder of Junior Engineer (Civil) and consider his name for further promotion as Sub Divisional Engineer from the date when his juniors have been promoted, with all consequential benefits.

Mr. Sanjiv Gupta, learned counsel appearing on behalf of the petitioner submitted that the petitioner, vide appointment letter dated 11.11.2004 (Annexure P-1), was appointed as Junior Engineer in Public Health Engineering Department, Haryana. He sought permission for improvement of his qualification for admission in AMICE (Associated Members of Institute of Civil Engineers), equivalent to BE/B.Tech (Civil),

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run by Civil Engineers, Ludhiana, Punjab. The aforesaid course was recognized by All India Council For Technical Education (AICTE) and State Board of Technical Education, Haryana. His application was forwarded through proper channel i.e. by Executive Engineer vide Annexures P-3 and P-4. The petitioner, vide Annexure P-5, dated 10.03.2014, submitted the request for including his name in Junior Engineer Gradation List, under category Degree Holder. Though the Department did not give the permission, but immediate officer did not object the petitioner to complete his course. Correspondences between Executive Engineer and Superintending Engineer continued to ascertain the information whether the official work regarding discharging of the duties, while undertaking the aforementioned course, would be suffered or not. Since the case of the petitioner was to be considered for promotion, the Engineer-in-Chief, Haryana, vide letter dated 18.07.2017 (Annexure P-12), sought the information from Section Officer, Evaluation, Association of Indian Universities, New Delhi, with regard to verification of Diploma/Degree (Civil). The Association of Indian Universities, vide letter dated 27.07.2017, clarified that Section A & B of the AMICE (I) in Civil Engineering, by the Ministry of Human Resource Development, vide their notification dated 06.11.2007, had accorded the equivalence. This fact was also to be verified, vide letter dated 24.10.2017 (Annexure P-14) from the Chairman, All India Council For Technical Education (AICTE), who vide letter dated 10.11.2017 (Annexure P-15) informed that Certificates/Associate Membership awarded to all the students by the Institutions, who were enrolled with the Institution with permanent recognition upto 31.05.2013, stood recognized. The case of the petitioner for adding his qualification and

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seniority list of Junior Engineer was considered by Engineer-in-Chief, Haryana and vide impugned order dated 21.11.2017, the same was rejected. The aforesaid recognition, according to the submissions of Mr. Gupta, are against letters (Annexure P-13 and Ex.P15), received from the office of Association of Indian Universities, New Delhi and All India Council For Technical Education (AICTE). Obtaining of Degree through Distance Education Course, cannot be a ground for declining the claim of the petitioner i.e. inclusion of his name in seniority list of Junior Engineer as well as other consequential benefits, thus, urges this Court for allowing of the writ petition by setting aside the impugned order, under challenge.

Mr. Hitesh Pandit, Addl. A.G., Haryana, submitted that vide Annexure R-1, letter dated 08.01.2018, Director General, Technical Education Department, Haryana, informed the Engineer-in-Chief, Haryana that diploma and degree in Civil issued by the Institution Civil Engineer, Ludhiana (Punjab) was not a valid qualification for recruitment/promotion to the post in the State of Haryana. Since the degree of the petitioner was not valid, rightly so, his case was rejected. In support of his contentions, reliance has been placed upon the *ratio decidendi* culled out by Hon'ble the Supreme Court in **“Orissa Lift Irrigation Corp. Ltd. V/s Rabi Sakar Patro and others” 2017 (4) SCT 683** as well as by Division Bench of this Court **“Kartar Singh V/s Union of India and others” 2012 (4) SCT 741.**

I have heard learned counsel for parties, appraised paper book and of view that there is no force and merit in the submissions of Mr. Gupta, for, the law with regard to recognition of the degree undertaken by way of Distance Education Course is no longer *res integra* in view of *ratio decidendi* culled out in **Kartar Singh's case** (supra).

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The consideration of the aforesaid degrees was debated upon by Hon'ble the Supreme Court in **Orissa Lift Irrigation Corporation Limited's case** (supra), where, in order to protect the interest of students belonging to the academic year 2001-2005, granted a chance to undergo test again. However, in the instant case, the period of academic year was 2013 i.e. 14.03.2013, thus, the aforesaid benefit cannot be granted.

It would be in the fitness of things to extract the contents of letter dated 08.01.2018 (Annexure R-1), written by the Director General, Technical Education Department Haryana, Panchkula to the Engineer-in-Chief, Haryana, Public Heath Engineering Department, Panchkula, which reads as under:-

*"Subject: Regarding verification of diploma/degree (Civil).
Kindly refer to your vide memo No.766652-PHE/ET(2) dated 31.08.2017 on the subject mentioned above.
In this regard, I am directed to convey you that diploma and degree in Civil issued by Institution Civil Engineer, Ludhiana (Punjab) is not a valid qualification for recruitment/promotion to the post in the State of Haryana"*

On perusal of the aforesaid letter, I am of the view that once the degree is not recognized/valid, non-inclusion of the name of the petitioner, vide impugned order dated 21.11.2017, cannot be said to be suffering from any illegality or unjustified, much less, fallacious. It is settled case that petitioner obtained degree through distance education, though not recognized by the State of Haryana, therefore, argument of Mr. Gupta, must fail.

Keeping in view the aforementioned facts, the prayer of the petitioner is not called for judicial intervention under Articles 226/227 of

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the Constitution of India. The present writ petition is devoid of merit and the same is hereby dismissed. Consequently, the accompanying application (s), if any, is also dismissed.

17.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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