

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

CWP No.2778 of 2011 (O&M)

Date of decision: 17.01.2020

Aabid Hussein

.....Petitioner

Versus

Haryana Staff Selection Commission and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sangita Dhanda, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Ritu Bahri, J.

Petitioner is seeking quashing of the action of respondent Nos. 1 and 2, whereby candidates lower in merit have been appointed as Multi Purpose Health Worker (Male).

Petitioner is a Backward Class candidate and has passed Multipurpose Health Worker Diploma from Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan. Certificate of diploma has been annexed as Annexure P-1. It is further stated that the said University has been established under a statute after getting due permission and recognition from the University Grants Commission (UGC) as per the requirements of Section 3 of UGC Act. The University has been established from the date of publication of notification dated 12.01.1987 (Annexure P-2) and it has jurisdiction throughout the territory of the State. On 17.02.2004, the Government of India issued a letter (Annexure P-3) to the Vice Chancellor, whereby a blanket declaration was made that all degrees/diplomas awarded

by the Universities under Section 3 of the UGC Act, 1956 and institutes of National importance declared under any Act of Parliament, stand automatically recognized for the purposes of employment under the Central Government. Vide notification dated 18.03.1975 (Annexure P4), the Government of Haryana took a decision that all qualifications awarded by recognized Universities shall be deemed to be recognized by the Government of Haryana. It was also decided that all qualifications recognized by the Government of India shall be deemed to be recognized by the Government of Haryana.

In the year 2008, vide advertisement No.3/2008 dated 07.06.2008, Haryana Staff Selection Commission advertised 235 posts of Multipurpose Health Worker (Male). Thereafter, a corrigendum was issued on 07.10.2008 and the posts were increased from 235 to 785. All the candidates were given time to apply for the said posts uptill 22.10.2008. The petitioner was in the selected list and his claim for appointment was rejected by respondent Nos.1 and 2.

Learned counsel for the petitioner has argued that claim of the petitioner, despite being selected, was rejected and the candidates lower in merit have been appointed. He further argued that the present case is squarely covered by the judgment dated 01.11.2006 passed by a Division Bench of this Court in **Manoj Kumar and others vs. State of Haryana and others**, CWP No.12161 of 2006 (Annexure P-5). In that case, the Division Bench held that Multipurpose Health Workers training course of 18 months, conferred upon the petitioner by Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur, a deemed university, is to be taken as a valid diploma.

As the petitioner (in that case) had secured more marks than the last selected

candidate, the respondents were directed to appoint him on the post of Multipurpose Health Worker (Male) in General category.

In this case, as per reply filed by respondent No.2, the petitioner has done his diploma through distance education. His diploma is not as per Haryana MPHWS (Male) Group 'C' Service Rules. Therefore, the petitioner cannot take the advantage of Government notification, which was issued in the year 1975. Since, the petitioner was not a regular student in University Campus, Udaipur (Rajasthan), he cannot be considered as per notification of the year 1975. Respondent No.2 has also placed on record copy of order dated 02.06.2011 passed in LPA, which is pending in this Court, where operation of the judgment passed in CWP No.16540 of 2010 has been stayed. It was further stated that a candidate is eligible only, if, he has got a diploma, which is recognized by the Haryana Government as per notification dated 18.03.1975.

Petitioner has filed replication to the written statement of the respondent(s), whereby it is stated that LPAs (Annexure R-1) have already been decided vide judgment(s) dated 06.11.2012 and the State Government was directed to consider the approval of the qualification obtained by the petitioners as one of the qualifications of Multipurpose Health to be included in Schedule I of the Nursing Act, in consultation with Indian Nursing Council or State Nursing Council, within a period of six months. If, the answer is in the affirmative, then the State Government shall consider the claim of the writ petitioners for appointment in accordance with law. But, if the State Government or the State Nursing Council or the Nursing Council of India finds that such qualification is not required to be approved by them, the AICTE will examine the same in consultation with the

Commission.

The diploma done by the petitioner is a non technical diploma, which can be undertaken by the Distance Mode of Education. Vide letter dated 30.05.2013 (Annexure P-10), petitioner received information under the Right to Information Act, 2005, as per which, diploma of Multipurpose Health Worker is a non-technical diploma. Petitioner has placed on record copy of judgment dated 27.05.2015 passed by a co-ordinate Bench of this Court in **Gurmail Kaur and others vs. State of Haryana and another,** CWP No.7626 of 2015 (Annexure P-11), whereby it has been held that all course run by the said University are legal and valid and the UGC had been granting permissions from time to time to offer academic qualifications in various subjects from the Deemed Universities through study centres. Reference has been made to the Gazette notification dated 01.03.1995 issued by the Government of India, whereby a decision has been taken that all qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature, Institutions deemed to be Universities under Section 3 of the UGC Act, 1956 and the institutions of National Importance declared under the Act of Parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government, **provided it has been approved by Distance Education Council, Indira Gandhi National Open University and wherever necessary, by All India Council for Technical Education, New Delhi.** Petitioner has also placed on record experience certificate dated 21.07.2015 (Annexure P-7) issued by the respondents, whereby on the basis of same qualification, he had been appointed on contract basis. As per this certificate, petitioner had worked with the respondents from 17.01.2007

to 21.07.2015.

Learned State counsel has referred to the judgment passed by this Court in **Sandeep and others vs. The State of Haryana and another**, CWP No.13400 of 2012 (decided on 29.11.2017), whereby diploma issued by Janardhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur, was held to be neither approved by Government of Haryana nor Haryana Nurses Registration Council, Chandigarh, AICTE, UGC and Rajasthan Government. Order, in that regard, was passed by the Director, Health Services on 03.05.2013. Keeping in view this order, the writ petition was dismissed.

Heard, counsel for the parties.

Judgment referred to by the learned State counsel in **Sandeep's** case (supra) was examining the issue with respect to appointment to the post of Multipurpose Health Worker (Male) and the diploma awarded to the petitioners (therein) in Community Health Work in the year 2009 from Janaradhan Rai Nagar Rajasthan Vidyapeeth University, Udaipur. The said petition was dismissed by referring to a judgment passed by the Division Bench of this Court in **Kartar Singh vs. Union of India and others**, 2012 (4) SCT 741 and letter dated 03.05.2013 issued by the Director, Health Services. While dismissing the petition, it was observed that the diploma was neither approved by Government of Haryana nor Haryana Nursing Registration Council, Chandigarh, AICTE, UGC and the Rajasthan Government. Against the judgment passed in **Kartar Singh's** case, Special Leave Petition (Civil) Nos.35793-35796 were filed, which are pending consideration before the Hon'ble Supreme Court. As per interim order dated 14.12.2012, all appointments made were subject to the result of SLPs. In

Gurmail Kaur's case (supra) (Annexure P-11), this Court was examining the validity of M.A. Degree acquired by the candidates from various Deemed Universities namely, Rajasthan Vidyapeeth Udaipur, Rajasthan, IASE Sardar Sahar, Rajasthan, Bangalore University, Bangalore and Vinayaka Missions University, Salem, Tamil Nadu. By referring to the interim order passed by Hon'ble the Supreme Court, this Court observed that all the appointments were subject to the final decision of SLP No.7820 of 2013 and other connected SLPs. The said SLP is still pending before the Hon'ble Supreme Court. With respect to the Deemed University, reference has been made to the letter dated 01.08.2014 issued by the UGC to the Director, Secondary Education, Haryana, Directorate of School Education. The UGC had been granting permission, which has been extended from time to time, to offer academic qualifications in various subjects from the Deemed Universities through study centres. The Additional Chief Secretary to Government of Haryana, School Education Department, vide letter dated 26.09.2014, sought clarification regarding the academic qualification/post graduation in various subjects from the Deemed Universities through study centre and in response to this letter, the UGC vide letter dated 13.10.2014, clarified that the qualifications obtained by the candidates may be treated valid provided the admissions were taken to the Universities during the period of valid recognition and the programmes were offered from the Headquarters/Main Campus of the Deemed Universities. It was further clarified that the Government of India, vide Gazette Notification dated 01.03.1995, decided that all the qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature, Institutions deemed to be Universities under Section 3 of the

UGC Act, 1956 and the institutions of National Importance declared under the Act of Parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government, provided it has been approved by Distance Education Council, Indira Gandhi National Open University and wherever necessary by All India Council for Technical Education, New Delhi.

Keeping in view the above said instructions and the stay granted by Hon'ble the Supreme Court against the judgment passed in **Kartar Singh's** case (supra), the writ petition in **Gurmail Kaur's** case (supra) was allowed by treating the petitioners' degrees of MA from the Deemed Universities duly recognized and directions were given to the respondents to issue appointment letters to the petitioners (therein).

In the facts of the present case, letter dated 03.05.2013 issued by the Director, Health Services cannot be made basis to declare Multipurpose Health Worker Diploma obtained from Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rjasthan (Annexure P-1) as invalid on the ground that it has not been approved by the Government of Haryana or Haryana Nursing Registration Council. In the judgment passed in **Gurmail Kaur's** case, reference has been made to the letters dated 01.08.2014 and 13.10.2014 issued by the UGC clarifying that the candidates, who have got degrees from the Deemed University during the period of valid recognition and the programmes were offered from the Headquarters/Main Campus of the Deemed Univesity, are automatically recognized for the purpose of employment keeping in view the Gazette notification dated 01.03.1995. In the present case, Rajasthan Vidyapeeth, Udaipur, Rajasthan is a Deemed University. The ratio of judgment passed in **Gurmail Kaur's** case (supra)

(Annexure P-11) squarely covers the case of present petitioner.

In view of the above, the present petition is allowed and a direction is given to respondent Nos. 1 and 2 to treat the petitioner eligible and offer him appointment as per merit. However, his appointment will be subject to the final decision in SLP in Kartar Singh's case. The petitioner will be given salary with effect from the date when he joins. The notional benefit will be given from the date when persons, junior to him, joined.

17.01.2020
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No