

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

LPA-41-2022 (O&M)
Date of decision:- 14.12.2023

State of Haryana and another

...Appellant(s)

Versus

Sohan Lal and others

...Respondent(s)

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE**
HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellants.

Mr. D.S. Patwalia, Senior Advocate,
with Mr. Kanwal Goyal, Advocate,
Ms. Sehar Navjeet Singh Sandhu, Advocate,
for respondent No. 1.

* * * *

RITU BAHRI, A.C.J. (ORAL)

CMs-95 & 97-LPA-2022

For the reasons mentioned therein, the delay of 537 days in filing and 25 days in re-filing the appeal is condoned.

The applications stand disposed of.

LPA-41-2022

This appeal is directed against the judgement and order dated 04.10.2018 passed by the learned Single Judge allowing the writ petition filed by the petitioner (respondent No. 1 herein) by observing as under:-

“7. As a result, this petition is allowed in terms of the decision in Kashmir Chand Kamboj’s case (supra) with the direction to the respondent to consider appointing the petitioner as Assistant Engineer (Civil) in Public Health Department within six weeks from the date of supply of order after completing the requisite formalities.”

2. After the aforesaid judgement was passed by the learned Single Judge, respondent No. 1’s case was recommended for appointment by respondent No. 2 – Haryana Staff Selection Commission. However, a review application i.e. RA-CW-86-2020 was filed by the appellants which was dismissed by the learned Single Judge on the ground of delay vide judgement and order dated 20.08.2021.

3. Learned senior counsel, appearing for the respondent No. 1, has referred to the aforesaid review application at page No. 210 where in paragraph 7 the appellant - State of Haryana has made a mention that the respondent No. 1 had appeared in the examination conducted by the All India Council for Technical Education (AICTE) during June, 2018 and passed the said

examination as per the certificate for validation of degree (UG - Engineering) issued by the AICTE (Annexure R-2). The respondent No. 1 thereafter made a representation dated 16.10.2019 (Annexure R-3) for appointment to the post of Sub Divisional Engineer (Civil) in Public Health Engineering Department, Haryana, after clearing the examination. The respondent No. 1 had also filed COCPs-408 & 409-2019 in Civil Appeal Nos. 17869-17870 of 2017 titled as *Ashok Kumar and others Vs Depinder Singh Dhesi and others* before the Supreme Court. Learned senior counsel for the respondent No. 1 states that the respondent No. 1 was given provisional appointment to the post of Assistant Engineer (Civil) Class-II, Public Health Engineering Department, Haryana vide appointment letter dated 23.02.2022 Annexure RC/1 at page No. 13 of the reply to CM-97-LPA-2022, subject to final outcome of the appeal. On 02.08.2023, reference was made by this Court to the judgement of the Supreme Court in *Orissa Lift Irrigation Corporation Ltd. Vs Rabi Sankar Patro and others* 2018(1) SCC 468 and learned State counsel was directed to get instructions that if the respondent No. 1 had already cleared the examination and got his degree validated, why he could not continue to work and the appeal survive.

4. Learned State counsel, appearing for the appellants, has referred to the judgement of the Supreme Court in *Ashok Kumar and others Vs Depinder Singh Dhesi and others*, 2019(8) SCC 280, wherein the Supreme Court, while referring to *Orissa Lift Irrigation Corporation Ltd.*'s case (supra), has observed that additional benefits cannot be taken by the candidates on the basis of this judgement and if the degrees stood restored in terms of the directions in the judgement, the candidates would certainly be eligible to such entitlement, but restoration would only be of those benefits which they were enjoying on the date of the judgement. Learned State counsel states that when the judgement in *Orissa Lift Irrigation Corporation Ltd.* (supra) came, the respondent No. 1 was not even holding the job and he qualified in the year 2018 as per the certificate of validation (Annexure R-2) and, thus, he had no vested right to be appointed on the post as he was never working with them as per the observation made by the Supreme Court in paragraph 10 of the judgement in *Ashok Kumar and others* (supra). Even if this aspect has to be examined, it was the appellant(s) who had given him provisional appointment subject to pendency of the appeal vide letter of appointment dated 23.02.2022 (Annexure RC/1).

5. Learned senior counsel for the respondent No. 1 has referred to the appointment letter (Annexure RC/1), whereby the respondent No. 1 was given provisional appointment on the post subject to the final outcome of the appeal. He has further referred to the appointments given to similarly situated persons who had obtained degrees from distant mode. However, the respondent No. 1's case had not been recommended on the ground that he was

not eligible. However, similarly situated candidates whose names had been recommended vide Annexure P-13 were given appointment and after clearing the examination they are still working and have been promoted. He has further referred to the minutes of meeting dated 06.03.2019 (Annexure R-10/5) at page No. 262 of the paper book, whereby the case of one Krishan Kumar, SDE (Civil), who is at serial No. 19 of the list/final result sheet at page No. 121 (Annexure P-13), was considered and in that consideration it has been observed that after joining he has cleared the examination after the judgement of the Supreme Court in *Orissa Lift Irrigation Corporation Ltd.* (supra) and he has got a valid degree through distant mode of education and he has become eligible for promotion to the post of Executive Engineer. However, the name of respondent No. 1 was not recommended on the ground that he did not have a valid degree.

6. In view of the aforesaid, the appeal being meritless is accordingly dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

14.12.2023
Amodh Sharma

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