

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2247-2016 (O&M)

Date of Decision:04.08.2023

BHARAT BHUSHAN

.....Petitioner

V/s.

**STATE OF PUNJAB THROUGH SECRETARY DEPARTMENT OF
EDUCATION, CIVIL SECRETARIAT, CHANDIGARH AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Saurabh Bajaj, Advocate, and
Ms. Aishwarya Bajaj, Advocate,
for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner by way of this Writ Petition prays for issuance of a writ in the nature of *certiorari* for setting aside the notification dated 07.01.2016 issued for the promotion to the post of Lecturer cadre whereby the petitioner has been debarred from the promotion.

2. Mr. Saurabh Bajaj, Advocate has put in appearance on behalf of the petitioner and filed his power of attorney on behalf of the petitioner.

3. Learned counsel for the petitioner submits that petitioner has prayed for consideration of his case for promotion to the post of Lecturer cadre from the Master cadre in terms of the notification dated 07.01.2016 and submits that the respondents have deprived him from consideration for the promotion only on the ground that he had obtained his Masters Degree in Commerce from the University situated outside the territorial jurisdiction of the State of Punjab through the Distant Education mode.

4. Learned counsel for the petitioner submits that the respondents issued a circular on 07.01.2016 inviting consideration of cases of candidates for promotion from the post of Master to Lecturer cadre but in the said circular, an illegal condition was laid down limiting the consideration of only those Masters/Mistresses to be eligible for promotion, who have obtained their qualification from the Universities affiliated with UGC on regular basis or through distant education mode from Universities of Punjab State affiliated with Distance Education Council in affiliated subject. It was further contemplated in the publication that the employees who have obtained requisite qualifications from the Universities outside the territorial jurisdiction of Punjab State shall not be considered for the said promotion. Resultantly, while the petitioner came within the zone of consideration for regular promotion in subject of Commerce, he was not considered and was informed that since he had not completed his M.Com Degree from the University within the State of Punjab, through distant education mode, he was ineligible for consideration.

5. Learned counsel for the petitioner submits that the petitioner had been granted permission by the Government itself to pursue his studies for M.Com degree for the sessions 2011-12 and 2012-13, from the Maharishi Dayanand University, Rohtak (for short "M.D.University") through distant education mode. He has taken this Court to the orders dated 24.12.2012 and 14.01.2014 whereby approval was granted for allowing him to obtain qualification of M.Com from the M.D.University.

6. Learned counsel for the petitioner submits that the M.D. University is one of the oldest Universities of the joint Punjab and Haryana

as it stood prior to them being formed in two different States. It was a regular State University and the respondents have wrongfully interpreted the UGC notification in denying the petitioner's qualification of M.Com for consideration for promotion.

7. *Per contra*, learned State counsel asserts that the notification issued by the respondents has resulted in ousting of the petitioner from consideration for promotion to the post of Lecturer cadre. It is submitted that the UGC issued a letter 27.06.2013 whereby it has been clarified that the Universities established or incorporated by or under a State Act shall operate only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of the State of its location. In view thereof, learned State counsel submits that the distant education qualification obtained by the petitioner from the M.D. University cannot be considered.

8. I have considered the submissions of learned counsel for both the parties as noticed above.

9. This Court finds that the petitioner was granted approval for pursuing M.Com degree through the distant education from the M.D. University. The said University is not a University set up under the State Act but is a University under the UGC and would come within the definition of the State Universities.

10. Clause C of the letter dated 27.06.2013 which deals with the Distant Education Programmes of the Central Universities and State Government Universities reads as under:-

“C. Distance Education Programmes of the Central Universities and State Government Universities.

The Central/State Government Universities can conduct courses through distance mode in accordance with the provisions of their respective Act and after the approval of the UGC.

The information relating to recognized universities, list of specified degrees and all the relevant regulations/instructions/guidelines of the UGC are available on UGC website: www.ugc.ac.in.

The students are advised not to take admission in the unapproved Study Centres, Off-campus Centres, Franchisee Institutions, Colleges/Institutions claiming to be affiliated with Private Universities or Deemed Universities.”

11. The circular issued by the respondent-State for inviting the eligible candidates for promotion to the post of Lecturers, in various subjects, is essentially based on the circular issued by the University and therefore. the same has to be read harmoniously with the circular issued by the UGC on 27.06.2013. Thus, the cases of employees who obtained the educational qualification through distant education from the private Universities or Universities under the State Act have to be considered differently from those who have obtained educational qualification from the Distance Education Programmes from other State Government University established under the UGC or by the Central Universities.

12. The case of the petitioner would fall in the second category. Since, he has done his post graduation in Commerce from the Haryana State Government University namely MDU, Rohtak, he would be entitled for consideration for promotion and his case cannot be excluded.

13. At this stage, learned State counsel has pointed out that the seniority list drawn by the Masters is being revised in terms of the orders

passed by the Division Bench of this Court and the petitioner, even if held eligible, shall have to be considered only after the seniority list is revised.

14. The statement made by the learned State counsel deserves to be accepted and therefore, at this stage, while the petitioner is declared eligible for consideration for promotion in terms of his educational qualifications for the subject of commerce, it is directed that since the revised seniority list is being prepared, the petitioner's case shall be considered for promotion to the post of Lecturer cadre in the subject of Commerce as well as for any other subject(s), for which he may be eligible and even he shall be given promotion from the date other persons similar to him were promoted with all consequential benefits.

15. The exercise in this regard should be conducted expeditiously and it is expected that the revised seniority list shall be published not later than a period of 3 months.

16. The Writ Petition is disposed of in the aforesaid terms.

17. Pending application(s), if any, is disposed of accordingly.

August 4, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>