

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

211

CWP-7548-2012 (O&M)
Date of Decision :-06.11.2023

Sanjeev Sheoran and others**...Petitioners**

Versus

State of Haryana and others**...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kartikey Chaudhary, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. Learned Senior counsel appearing for the petitioners submits that the present petition may kindly be disposed of having been not pressed any further qua petitioners No.1,3,4 and 5.

2. Ordered accordingly.

3. In the present petition, challenge is to Clause-IV of the Instructions dated 18.10.2011 (Annexure P/23). As per the said clause, for the grant of incentive for higher qualification under which, two advance increments are to be granted on acquiring post graduation degree, only the degree obtained through regular mode is to be considered and not the degree obtained through distant mode.

4. Learned Senior counsel for the petitioners submits that the petitioner had got the decree of M.Tech. from Janardhan Rai Nagar Rajasthan Vidyapeeth University. The said degree of Masters in Technology

(Mechanical) was obtained by the petitioner on 26.04.2008. Learned Senior counsel for the petitioner further submits that at one given point of time, the degree obtained by the petitioner through distant mode was not treated valid but ultimately the said issue has been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.17869-17870 of 2017 titled as Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro, decided on 03.11.2017** holding that though, the degree obtained in technical education through distant mode is not valid degree but any candidate, who got admitted during the academic sessions 2001-2005 and had obtained degree in technical education through distant mode, will appear in an examination to be conducted by AICTE and whosoever clear the said examination, his/her degree will be treated as valid degree and in case the candidate fails in the said examination, his/her degree will be recalled. Learned Senior counsel for the petitioners submits that the petitioner has already passed the examination conducted by AICTE hence, the degree obtained by the petitioner through distant mode is needed to be treated as valid as per the law settled by the Hon'ble Supreme Court of India in **Orissa Lift Corporation (supra)** and Clause-IV of the Instructions dated 18.10.2011 is liable to be set aside.

5. Learned State counsel submits that restrictions imposed in Clause-IV of the Instructions dated 18.10.2011 remains valid keeping in view the fact that for the grant of incentive for higher qualification, the State Government's decision was only that higher qualification obtained through regular mode is to be treated as valid.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Once, the Hon'ble Supreme Court of India has held that the degree obtained through distant mode becomes valid in case the candidate passes the examination conducted by AICTE, then there cannot be a difference between the degree obtained through distant mode or regular mode. Once, the degree obtained through distant mode becomes valid on passing examining prescribed by AICTE, restriction imposed in Clause-IV of the Instructions issued by the State Government in the year 2011 has now lost its significance due to the subsequent legal precedent, which has come into being as per the judgment of the Hon'ble Supreme Court of India in *Orissa Lift Corporation (supra)*.

8. Keeping in view the above, once the Hon'ble Supreme Court of India equated the degree obtained through distant mode or through regular mode for the candidates, who appeared during the sessions 2001-2005, in case they pass the examination prescribed by AICTE, the respondents cannot claim that the restrictions imposed in Clause-IV of the Instructions dated 18.10.2011 will be applicable upon the petitioner for considering his claim for the grant of incentive of two advance increments upon acquiring post graduation qualification.

9. It may be seen that this Court is not opining about entitlement of the petitioner for the grant of benefit of two advance increments as the same will be done by the respondents only and the opinion given by this Court in the present order is for considering the claim of the petitioner so that he will not be ousted for consideration of his claim merely on the ground that degree obtained by him through distant mode is not valid.

10. Let respondents pass an appropriate order keeping in view the observations given by this Court in the preceding paragraphs of the present

judgment and decide with regard to the entitlement of the petitioner for the grant of benefit of two advance increment on acquiring higher qualification within a period of 08 weeks from the date of receipt of copy of this order and in case after the decision, it is found that the petitioner is entitled for any relief, the same be also extended to him within a period of four weeks thereafter.

11. Present petition stands disposed in above terms.
12. Civil miscellaneous application pending, if any, is also disposed of.

November 06, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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