

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

**LPA-26-2018 (O&M)
in CWP 16224 of 2016
Date of decision:17.01.2023**

RAM KUMAR AND OTHERS

... Appellants

Versus

HVPNL & ORS.

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO,
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Vijay K. Jindal, Sr. Advocate with
Mr. Samar Ahluwalia, Advocate for the appellants.

Mr. Arun Beniwal, DAG, Haryana.

Mr. Ashish Kumar, Advocate for
Mr. Gagandeep Singh Wasu, Advocate for HVPNL.

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Lalit Rishi, Advocate,
Mr. Ojaswini, Advocate and
Ms. Shelly Arora, Advocate for respondent No.5 to 12

M.S. RAMACHANDRA RAO, J. (ORAL)

In the present case the issue which arises for consideration is:

- (A) “whether a notification dated 26.05.1977 in File No.F16-19/75/T-2
allegedly by the Ministry of Education & Social Welfare, New
Delhi was in fact issued by the said Department?” and
- (B) “whether benefit of the said notification can be given to the
appellants in the present case i.e. LPA-26-2018?”

In the said notification dated 26.05.1977, the Director Technical
of the Ministry of Education recognized that a diploma in Engineering in an
appropriate discipline plus total 10 years of technical experience in the
appropriate field is equivalent to a Degree in Engineering.

The benefit of the said notification is being claimed by the appellants while the respondents contend that there is no such notification issued by the Union of India, that it is a fictitious document and so it is not be enforced.

Learned Single Judge in his order dt.22.12.2017 in CWP-16224-2016 had agreed with the contention of the respondents and declined to apply the said notification by placing reliance on a counter-affidavit said to have been filed by respondent No.6, 7 & 11 on 11.12.2017 wherein they had taken a stand that the alleged notification has not been issued by the Ministry of Human Resource Development, Government of India, and that it is a fictitious notification; that efforts were made to obtain the original of the said notification from the Central Record Unit [CRU] Section of the Ministry and the Department of Publication, Ministry of Urban Development, Government of India, which is the repository of a Gazette Notifications published in the Government of India Press, but both the CRU Section of the Ministry and the Department of Publication have stated categorically that the said notification is not available.

Reference is also made to an order passed on 15.12.2015 by the Central Administrative Tribunal, Chandigarh, Bench in OA.No.343-PB-2013 and a notification dated 23.03.2016 (published on 09.05.2016) by the Ministry of Human Resource Development wherein the notification in File No.18-19/75 T-2 dated 26.05.1977 was declared as fictitious.

The learned Single Judge, who decided CWP-16224-2016, held that the benefit of the said notification cannot be given to the appellants who are respondents before him and rejected the plea of the appellants that for the previous 40 years not only the Union of India and its Departments but even

State Governments had recognized and granted the benefit under the said notification. The learned Single Judge held that in view of the affidavit of the Secretary, Ministry of Human Resource Development, the benefit of treating the appellants as degree holders was wrongly granted and directed withdrawal of all the benefits given to them.

Learned counsel for the appellants contends that the learned Single Judge erred in disbelieving the very existence of the notification dated 26.05.1977 and in denying the benefit under the said notification to the appellants.

According to him, the said notification has been given effect to in several cases decided by various High Courts including this High Court and some of the said orders have also been confirmed in the Hon'ble Supreme Court. He drew the attention of this Court to Civil Appeal No.591 of 2009 decided on 07.05.2015 arising out of CWP No.17974 of 2006 decided on 10.01.2008 by this Court.

We may point out that in CWP 17974 of 2006 as also in Civil Appeal No.591 of 2009 nobody doubted the existence of the notification dated 26.05.1977 and the Court proceeded on the assumption that such a notification was issued by the concerned Ministry and was valid and subsisting and granted relief on that basis. Therefore, it cannot be held that there was an adjudication in those proceedings about the validity and existence of the said notification.

Likewise, it may be that in the Review Petition filed in the Supreme Court in Review Petition Civil No.2826-2017, there was a reference made to the order dated 15.12.2015 passed by the Central Administrative Tribunal Chandigarh Bench (wherein it had declared the said notification dated 26.05.1977 as fictitious) and the Review Petition itself was dismissed on

16.01.2018 observing that no merit was found in the same and also on the ground of delay.

But the scope of the Review Petition is that interference would be warranted only if there is an error apparent on the face of the record and the dismissal of the Review Petition stating that there is no merit in it would only give an impression that no error apparent on the face of record was found in the order passed in the Civil Appeal. The said observation in the Review Petition cannot be construed as a finding being given by the Hon'ble Supreme Court about the incorrectness of the order dated 15.12.2015 passed by the Central Administrative Tribunal, Chandigarh or about the validity and existence of the notification dated 26.05.1977.

Having regard to the stand taken by the Secretary of the Ministry of the Human Resource Development in the counter-affidavit dated 11.12.2017 referred to above, it is not possible to hold that the notification dated 26.05.1977 was in fact issued by the Union of India and grant relief to the appellants as if the said notification is valid and subsisting.

We therefore, do not find any error in the judgment of the learned Single Judge warranting interference by this Court in exercise of jurisdiction under the Letters Patent.

Accordingly, the appeal fails and is dismissed.

Pending CMs, if any, are also dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

17.01.2023
Sonia

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