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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-19535-CWP-2023 in/and
CWP-31214-2019 (O&M)
Date of Decision: 24.11.2023

Sandeep Kumar

. . . . Petitioners

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. V.K. Shukla, Advocate
 for the applicant/petitioner.

Mr. Paramjit Batta, Addl. A.G., Punjab.

Mr. Rajat Khanna, Advocate
Mr. Vijay Pratap Singh, Advocate
Mr. Vishal Saini, Advocate
for respondent No.4/University.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Application bearing No.CM-19535-CWP-2023 has been filed by the petitioner for disposal of the present writ petition.
2. Main case is taken on board today itself.
3. Learned counsel for the petitioner as well as counsel for the respondent No.4/University are *ad idem* that the case stands covered by the judgment passed by this Court in *Vikram Singh vs. State of Punjab and others in CWP-22392-2020*, decided on 12.09.2023,
4. Counsel for the State however submits that he has instructions that the judgment passed by this Court shall be challenged in LPA. However, admittedly no LPA has been filed, while the limitation period for filing

LPA is already over. The stand of the learned counsel for the State therefore is without any basis.

5. In *Vikram Singh vs. State of Punjab and others* (supra), this Court held as under:

“1. The issue raised in the present Writ Petition is no more *res integra* and the same has been substantially and specifically dealt with by the coordinate Bench of this Court in ***Vikram Singh Vs. Subordinate Selection Board, Punjab and Others***; 2019 (3) SCT 26, wherein the similarly situated candidates, who had obtained degree in B.Sc. Information Technology through the Distance Education mode from the Sikkim Manipal University of Health, Medical and Technological Sciences during the session 2010-2013, was considered by this Court as eligible for appointment as a Clerk/Data Entry Operator.

2. The Court passed the following order:-

‘7. Having scrutinized above admitted sequel of events and hearing arguments of counsel for the parties, especially the UGC and Sikkim Manipal University, this Court finds that present petition deserves to be allowed.

The conceded position as emerges from record of the case is that the petitioner obtained Bachelor's Degree in Information Technology through Distance Education Mode from SMU during the session 2010-2013. As per judgment dated 29.06.2015 (P-11) of Sikkim High Court as upheld by Hon'ble Supreme Court vide order dated 21.09.2015 (P-12), students who were enrolled in such courses prior to the academic session 2011-2012 and having completed degree before or thereafter, stand protected and their Degree(s) are valid. The said degree course was duly recognised by Distance Education Council vide its communication dated 06.11.2009.

8. The petitioner cleared Punjabi and English Typing Test and thereafter, appeared for counselling. At this stage no objection was raised by Board, however, name of petitioner was not included in the final merit list. The only ground of rejection of candidature of petitioner is that he has obtained

degree through Distance Education Mode. From the afore-stated undisputed facts reproduced in Para 6 coupled with reply of respondent SMU and judgment passed by Sikkim High Court, which has been upheld by Hon'ble Supreme Court, it is quite evident that students who were enrolled prior to Academic Session 2011-12 and have completed degree before or thereafter, stand protected and their degree(s) are valid. The petitioner was enrolled in the Academic Session of 2010-11 and he obtained Degree through Distance Education Mode in the year of 2013. It is evident that the petitioner was enrolled prior to Academic Session 2011-12 and even though he completed Degree after 2011-12 but he would be fully protected by orders of Sikkim High Court/Supreme Court and his Degree must be considered as valid. Therefore, the action of respondent-Board in treating the petitioner ineligible for appointment as clerk-data entry operator is declared illegal.

9. In view of aforesaid findings, the present petition deserves to be allowed and accordingly allowed. The respondent-Board is directed to consider the petitioner as eligible candidate and recommend his name for appointment as per secured merit in his reserved category if falling within zone of advertised vacancies within two weeks from the date of receipt of certified copy of this order. The Punjab Government/Department concerned would issue an appointment letter within next four weeks subject to usual/standard terms and conditions, appointing the petitioner as Clerk/Data Entry Operator with effect from his junior in merit list was appointed. It is further directed that the petitioner would be entitled to consequential benefits like continuity of service, seniority etc. with effect from the date of such appointment, however, monetary benefits shall be on notional basis.'

3. The said judgment takes into consideration the orders passed by the Sikkim High Court upholding the validity of territorial restrictions but at the same time clarified that the students, who were enrolled prior to the Academic Session

2011-2012, having completed the degree before and thereafter, stood protected.

4. The SLP preferred by the UGC was decided by the Hon'ble Supreme Court upholding the view taken by the Sikkim High Court on 21.09.2015.

5. The petitioner too has acquired the said qualification of B.Sc. (Information Technology) from Sikkim Manipal University in the year 2011. Certificate to that extent has also been issued to him on 26.09.2011. Thus, he falls under the same category as above.

6. In view thereof, the Writ Petition is allowed and the petitioner shall be granted the similar relief as above."

6. This Court finds that the facts of the present case are identical to those of the aforesaid writ petition (supra).
7. The petitioner too has acquired the said qualification of B.Sc. (Information Technology) from Sikkim Manipal University in the year 2013. Certificate to that extent has also been issued to him on 01.10.2013. Thus, he falls under the same category as in the aforesaid writ petition.
8. In view thereof, the writ petition is ***allowed*** in the same terms and the petitioner shall be granted the similar relief.
9. The interim order passed by this Court is made absolute.
10. Application No. CM-19535-CWP-2023 stands allowed.
11. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

November 24, 2023

Mohit goyal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No