

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-10410-2011 (O&M)
Date of Decision: 22.02.2024

Sanjeev Tanwar

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Sunil K. Nehra, Advocate with Mr. Satyaveer Surjewala,
Advocate for the petitioner

Ms. Tanushree Gupta, DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed seeking appointment on the post of Sub Divisional Engineer (Civil) as per merit position in result dated 22.07.2009, Annexure P-2, pursuant to advertisement no.6 of 2008 published on 07.08.2008.

2. The respondent/Haryana Staff Selection Commission issued the aforementioned advertisement inviting applications for thirty-three posts of Sub Divisional Engineer (Civil) in the respondent Department, out of which twenty were for general category candidates. One of the essential qualifications for the post was Civil Engineering degree specified in Appendix B to Punjab Service of Engineers, Class I, PWD (Public Health) Rules, 1966. The petitioner, who belongs to general category, applied for the

post and cleared the written test also. He was called for interview, and as per the final result of selection dated 22.07.2009, Annexure P-2, placed at number four in the order of merit of the fifteen general category candidates who were selected. Despite the selection and recommendation by the Commission, the petitioner was not offered appointment. He approached this Court by filing CWP No.882 of 2010, which was disposed of by directing the respondents to decide his representation seeking appointment on the basis of selection. The representation was rejected, vide impugned order dated 23.06.2010, on the ground that he had passed Civil Engineering degree from JRN Rajasthan Vidyapeeth University, Pratap Nagar, Udaipur, a deemed to be university, in 2007, and during that period it was not on the approved list of universities. Hence, the degree being fake, no appointment could be issued on that basis. This led to filing of the instant petition.

3. Learned counsel for the petitioner contends that during pendency of the petition, the validity of degrees from JRN Vidyapeeth as well as some other deemed to be universities was considered by the Supreme Court in *Orissa Lift Irrigation Corporation Limited v. Rabi Sankar Patro*, (2018) 1 SCC 468. Although the degrees awarded to students/employees were not found valid, they were afforded an opportunity to get the same validated by clearing a special examination to be conducted by the UGC/AICTE for the purpose. The petitioner successfully cleared the special theory and practical examination conducted pursuant to directions of the Supreme Court for validation of his Civil Engineering degree, and a certificate to that effect, dated June 2018, Annexure A-1A, was issued to him. Accordingly, his degree stands validated from the date it was awarded, and he becomes entitled to all

the benefits on that basis, including appointment as SDE (Civil). The issue at hand stands settled by judgment of this Court rendered in CWP-558-2015 titled *Rajeev Kumar v. State of Haryana and others*.

4. Learned State counsel does not dispute the facts aforestated. The only contention raised by her is that in *Rajeev Kumar* case (*supra*), the petitioner had been issued the letter of appointment, whereas the petitioner was not issued any such appointment and was only recommended for the purpose. Therefore, the said judgment would not have any application to the petitioner's case.

5. Heard.

6. As per undisputed facts on record, the petitioner was duly selected and recommended for appointment on the post of SDE (Civil). The only reason he could not be offered appointment was validity of his Civil Engineering/B.Tech. degree awarded in 2007, which stands validated now from the date it was awarded. Not issuing the offer of appointment will not make any difference since the issue decided in the judgment is entitlement to the consequential benefits and advantages once the degree in question stands validated pursuant to decision in *Orissa Lift Irrigation Corporation* case (*supra*). Accordingly, the petitioner becomes entitled to the offer of appointment on the basis of selection for the post of SDE (Civil) which was refused only because his degree was not considered valid. His case is squarely covered by the judgment rendered by this Court in *Rajeev Kumar* case (*supra*) holding as under:

6. Undisputedly, the petitioner was enrolled as a student of B.Tech in Civil Engineering (Lateral Entry) in the academic session 2004-2005. After clearing the special examination successfully, which was conducted in terms of the directions in *Orissa Lift Irrigation Corporation Limited case (supra)*, his degree gets restored and validated from 2008, the year of passing; the certificate issued by the AICTE itself states so. He, therefore, becomes entitled to all the benefits conferred in terms of the judgment. The relevant paragraph thereof reads as under:

58. AICTE is directed to devise within one month from the date of this judgment modalities to conduct appropriate test(s) both in written examination as well as in practicals for the students concerned admitted during the academic sessions 2001-2005 covering all the subjects concerned. It is entirely left to the discretion of AICTE to come out with such modalities as it may think appropriate and the tests in that behalf shall be conducted in the National Institutes of Technology in respective States wherever the students are located. The choice may be given to the students to appear at the examination which ideally should be conducted during May-June, 2018 or on such dates as AICTE may determine. Not more than two chances be given to the concerned students and if they do not pass the test(s) their degrees shall stand recalled and cancelled. If a particular student does not wish to appear in the test(s), the entire money deposited by such student towards tuition and other charges shall be refunded to that student by the deemed to be University concerned within a month of the exercise of such option. The students be given time till 15th of January, 2018 to exercise such option. The entire expenditure for conducting the test(s) in respect of students who wish to undergo test(s) shall be recovered from the deemed to be universities concerned by 31.03.2018. If they

clear the test(s) within the stipulated time, all the advantages or benefits shall be restored to the candidates concerned. We make it clear at the cost of repetition that if the candidates concerned do not clear the test(s) within the time stipulated or choose not to appear at the test(s), their degrees in Engineering through distance education shall stand recalled and cancelled. It goes without saying that any promotion or advancement in career on the basis of such degree shall also stand withdrawn, however any monetary benefits or advantages in that behalf shall not be recovered from them.

7. The aforesaid direction was further clarified by the Supreme Court in *Ashok Kumar* case (*supra*) by holding, if the degrees stood restored in terms of the directions issued in the Judgment, the candidates would certainly be eligible for all such entitlements as would be available in accordance with law. The relevant paragraphs of the judgment read as under:

14. It was, therefore, clear that the candidates who, on the strength of such degrees awarded through distance education mode, had attained a particular level in their career or were enjoying certain benefits as on the date of the Judgment and if they pass the examination, those benefits would stand restored. If the candidates could clear the examination in the first attempt itself, there would not even be any break in continuous enjoyment of those benefits or facilities. The idea was, candidates should not stand deprived of the status that they were enjoying as on the day of the Judgment provided the candidates could prove their worth and ability.

15. But if, the candidates concerned had not attained any particular status, as on the date when the Judgment was passed, the width of the directions was not to confer any additional advantage which was not even enjoyed as on the

date. It was not the idea to hold the candidates to be entitled to certain additional benefits which the candidates were, as a matter of fact, not even enjoying on the date of the judgment. If the degrees stood restored in terms of the directions in the Judgment and the Order, the candidates would certainly be eligible to such entitlements as are available in accordance with law, but “restoration” would only be of those benefits, which they were enjoying as on the date of the Judgment. In short, the intent was to restore status quo ante and not to confer any additional advantage by the Judgment and the Order.

8. Since the petitioner was duly selected and recommended for appointment as Assistant Engineer (Civil), and was issued the offer of appointment also on 31.07.2014, he attained the status of an appointee Assistant Engineer. The appointment was, however, denied only on account of his B.Tech degree in Civil Engineering having been declared invalid since it was through distance education mode. After clearing the special examination conducted in terms of the directions issued in *Orissa Lift Irrigation Corporation Limited case (supra)*, to test his ability, the degree stands validated from 2008 itself and the benefits or advantages on that basis get restored to him in terms of the judgment. Consequently, he regains the status of appointee Assistant Engineer (Civil) and becomes eligible to be so appointed on the basis of offer of appointment, dated 31.07.2014. This does not amount to conferring any additional advantage on the petitioner which he did not enjoy on the date of offer of appointment; rather, it is only restoring his status and holding him entitled to appointment on that basis.

7. Consequently, the petition is allowed in terms of *Rajeev Kumar case (supra)* and order dated 23.06.2010 is set aside, holding the petitioner entitled to appointment on the basis of his Civil Engineering degree. The

respondents are directed to offer appointment to the petitioner on the post of Sub Divisional Engineer (Civil) based upon selection/recommendation by the Commission dated 22.07.2009, within four weeks from receiving a certified copy of this order. The petitioner shall be deemed to be appointed with all consequential benefits from the date other selected candidates have been appointed, but shall be entitled to salary only from the date of joining; no arrears thereof will be admissible to him. There shall be no order as to costs.

8. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

22.02.2024
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>