



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

(292)

**CWP-17246-2019 (O&M)
Date of Decision : 19.09.2024**

Sukhwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. Amarpreet Singh Bains, Asstt. Advocate General, Punjab.

Mr. Hemen Aggarwal, Advocate for respondent No. 3-UGC.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge at the hands of the petitioner is to the action of the respondents in treating him ineligible for the post of ETT Teachers as advertised by the respondents vide Advertisement dated 01.03.2019, copy of which has been appended as Annexure P-1.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3. The respondents issued an Advertisement dated 01.03.2019 (Annexure P-1) for filling up posts of ETT Teachers in Handicapped and Freedom Fighter Category. Petitioner applied for the post in question and competed in the reserved category of physically handicapped and cleared the written examination but, at the time of scrutiny of his documents, the petitioner was declared ineligible on the ground that the Bachelor of Arts



Degree, which the petitioner got from the University of Madras, Tamilnadu through Distance Education Mode, cannot be treated as a valid degree.

4. As per the respondents, the B.A. Degree submitted by the petitioner is not as per the University Grants Commission (UGC) Guidelines hence, the petitioner has been treated as ineligible to compete for the post in question.

5. Learned counsel for the petitioner submits that the petitioner got his B.A. Degree from University of Madras, Tamilnadu through Distance Education Mode in the year 2011 and he had completed his academic studies starting from the year 2009 till 2011, hence, the University of Madras, Tamilnadu, had appropriate permission to grant the Degree through Distance Education Mode, but the respondents without appreciating the said fact, have declared the petitioner ineligible for appointment to the post of ETT Teachers.

6. Upon notice of motion, the respondents have filed the reply, wherein, the State of Punjab has maintained its stand that the petitioner does not possess a valid Bachelor of Arts Degree as per the UGC Guidelines and the Degree submitted by the petitioner having been obtained from University of Madras, Tamilnadu through Distance Education Mode, is contrary to the guidelines of the UGC hence, the petitioner has rightly been declared ineligible for appointment to the post of ETT Teachers.

7. It may be noticed that the petitioner has also impleaded UGC as a party in the present petition and the UGC has also filed a reply to the claim of the petitioner. The respondent-UGC in paragraph No. 3 of their reply has stated that the University of Madras, Tamilnadu is a State University and the



Distance Education Council vide their letter dated 15.09.2008 (Annexure R-3/1) had granted the ex-post facto recognition to the Distance Education Programmes of the University of Madras, Tamil Nadu even for the academic year 1995-1996 and the same continued upto the year 2006-2007. Thereafter, the University of Madras, Tamil Nadu was again accorded provisional recognition for the programmes offered by the University through Distance Education Mode for the academic year 2007-2008 vide letter dated 03.09.2007 and the said recognition continued till the academic year 2014-2015. As per the reply filed by the UGC, it is only from the year 2016-2017 onwards, no further recognition was given to University of Madras, Tamil Nadu to conduct the program through Distance Education Mode.

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

9. The only question which arises for adjudication before this Court in the present petition is whether, the B.A. Degree submitted by the petitioner from the University of Madras, Tamil Nadu obtained through the Distance Education Mode is a valid qualification keeping in view the UGC Guidelines or not.

10. From the facts which have been stated here-in-before, the UGC is on record to say that the University of Madras, Tamil Nadu had recognition for conducting the program through Distance Education Mode. The said recognition continued upto the year 2014-2015. It is only that thereafter, the Distance Education Mode Programmes conducted by the University of Madras, Tamil Nadu were not recognized hence, the claim of the petitioner is to be considered keeping in view the stand of the UGC.



11. It is a conceded position that the petitioner has got his B.A. Degree for the academic year 2009 to 2011 though through the Distance Education Mode. At the relevant time, the University of Madras, Tamil Nadu had recognition to conduct the said examination through Distance Education Mode duly granted by the UGC. Once, when the B.A. Degree was obtained by the petitioner in the year 2011, when the University of Madras, Tamil Nadu had due recognition for the award of B.A. Degree through Distance Education Mode, it cannot be said that the petitioner did not possess a valid B.A. Degree or the same is contrary to the guidelines of the UGC.

12. Learned counsel appearing on behalf of the State has not been able to rebut the said fact. Once, the said fact has gone un-rebutted, it cannot be said that the Degree obtained by the petitioner from the University of Madras, Tamil Nadu in the year 2011 suffered from any infirmity so as to be considered invalid while evaluating the claim of the petition for appointment to the post of ETT Teacher.

13. Not only this, a Co-ordinate Bench of this Court in somewhat similar circumstances with regard to the academic Degree granted through the Distance Education Mode by the Sikkim Manipal University while passing order in CWP No. 24938 of 2016 titled as ***Jagjit Singh and another Vs. State of Punjab and others***, decided on 27.03.2019, has already held that the Degree which a candidate has obtained through the Distance Mode, during the period the University which has awarded the said Degree was duly recognized by the UGC for the grant of Degree through Distance Education Mode, is to be treated as a valid Degree. The relevant paragraph Nos. 7, 8 and 9 of the said judgment are as under :-



“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 petitioners obtained bachelor degree in Computer Application through Distance Education Mode from SMU during the session 2008-11 and 2007-2010 respectively. 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 petitioners cleared Punjabi and English Typing Test and thereafter, appeared for counselling. At this stage no objection was raised by Board, however, name of petitioners were not included in the final merit list. The only ground of rejection of candidature of petitioners is that they have 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. Both the petitioners were enrolled in the academic session of 2008-2011 and 2007- 2010 respectively and they obtained Degree through distance education mode in the year of 2011 and 2010. It is established that the petitioners were enrolled prior to academic session 2011-12 and even completed their course prior to 2011-12 and thus, would be fully protected by orders of Sikkim High



Court/Supreme Court and their Degree(s) are valid. Therefore, the action of respondent-Board in treating the petitioners 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 petitioners as eligible candidate and recommend their name for appointment as per secured merit in their 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 petitioners as Clerk/Data Entry Operator with effect from their junior in merit list were appointed. It is further directed that the petitioners 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.”

14. Learned counsel for the respondent-State has not been able to rebut that the claim raised by the petitioner in the present petition is similar to the one raised in ***Jagjit Singh and another (supra)***, where the benefit of treating the academic Degree obtained by a candidate through Distance Education Mode during the period the University concerned was duly recognized by the UGC for the grant of Degree through Distance Education Mode, is to be treated as a valid Degree for the purpose of appointment to a post.

15. Keeping in view the facts mentioned here-in-before, the claim of the petitioner that he be considered eligible to compete for the post in



question on the basis of the Degree obtained from University of Madras, Tamil Nadu in the year 2011 is allowed and the respondents are directed to treat the petitioner eligible to compete for the post in question i.e. ETT Teacher as advertised vide Advertisement dated 01.03.2019 (Annexure P-1).

16. As the petitioner has already undergone the selection process for the post in question, the respondents are directed to evaluate the case of the petitioner and in case, the petitioner is found entitled for selection/appointment and any candidate in the Category in which the petitioner is competing, having lower merit than the petitioner is selected/appointed, the petitioner will be granted appointment with effect from the date candidate lower in merit has been appointed against the one post which has already been reserved keeping in view the order passed by the Co-ordinate Bench dated 02.07.2019.

17. At this stage, learned counsel appearing on behalf of the petitioner on instructions from the petitioner, who himself is present in Court, submits that in case the respondents grant the petitioner appointment to the post in question within a period of eight weeks from the date respondents receive a copy of this order, he will not claim any arrears of salary upon retrospective appointment.

18. Keeping in view the said undertaking of the petitioner in case, the petitioner is found entitled for appointment and is within the merit zone, the petitioner be appointed on the post in question notionally from the date when candidate lower in merit has been appointed within a period of eight weeks. The petitioner's salary will be fixed accordingly from the date of appointment along with other benefits except the arrears of salary which the



petitioner has relinquished with the condition. Let the present order be complied with within a period of eight weeks from the receipt of copy of this order.

19. At this stage, learned counsel for the respondents submits that the similar claim is pending consideration for 29.10.2024 before the LPA Bench in LPA No. 1843 of 2019 titled as *State of Punjab and another Vs. Karamjit Kaur*.

20. It may be noticed that learned State counsel concedes the factum that there is no interim order in case of the said LPA and the judgment passed by the Single Judge has already been implemented. That being so, mere pendency of an LPA, will be no ground to postpone the hearing of the present case so as to await the said decision.

21. Present petition is allowed in above terms.

22. Pending miscellaneous application, if any, also stands disposed of.

September 19, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes