



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

(Sr. No. 107)

LPA No. 1659 of 2024 (O&M)

Date of decision: 21.10.2024

State of Haryana and another

..... Appellants

Versus

Sanjeev Tanwar

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE ALOK JAIN

Present : Mr. Sanjeev Kaushik, Addl. A. G., Haryana for the appellants.

Mr. Sunil Kumar Nehra, Advocate,
Mr. Rahil Mahajan, Advocate and
Mr. Suryaveer Surjewala, Advocate for the respondent.

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DEEPAK SIBAL, J. (Oral)

(1) The present intra court appeal is directed against judgment dated 22.02.2024 passed by a learned Single Judge of this Court allowing the respondent's petition through which he had sought appointment as a Sub Divisional Engineer (Civil) [for short - SDE (Civil)].

(2) A few relevant facts may be noticed.

(3) Through an advertisement dated 07.08.2008, the Haryana Staff Selection Commission (for short - the Commission) invited applications for appointment of 33 SDEs (Civil) in the Public Health Department of the State of Haryana. Out of the advertised posts 20 were meant for the General category. Later, the advertised posts were reduced from 33 to 24 and



consequently, the posts meant for the General category were also reduced from 20 to 15.

(4) The respondent applied for consideration of his candidature against the aforesaid 15 posts of SDE (Civil) meant for the General category. He appeared in the written test and was then interviewed. On the declaration of the final result, he found himself at merit No.4. However, no appointment letter was issued to him which led to the filing of a petition by him before this Court being CWP No.882 of 2010 which was disposed of on 20.01.2010 with a direction to the State to take a decision on the respondent's claim for appointment as SDE (Civil). On 23.06.2010 the State passed a speaking order denying the respondent's claim for appointment on the ground that the degree in Civil Engineering obtained by the respondent in the year 2007 was through distance mode from J.R.N. Rajasthan Vidyapeeth University, Udaipur, which the State did not recognize. This led to the second round of litigation at the respondent's behest through CWP No.10410 of 2011 through which he again sought issuance of directions to appoint him as SDE (Civil).

(5) While the respondent's petition was pending before this Court the issue with regard to validity of degrees in Engineering obtained through distance mode by deemed universities was being considered by the Supreme Court in a bunch of petitions in which the lead case was ***Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro and others***. Therefore, this Court adjourned *sine die* the respondent's petition to await the decision of the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra).



(6) Through its judgment dated 03.11.2017, the Supreme Court finally decided the aforesaid issue and held that the degrees conferred by deemed universities through distance mode were illegal. However, taking a sympathetic view the Supreme Court directed the All India Council of Technical Education (for short - AICTE) and the University Grants Commission (for short – UGC) to jointly conduct an examination in May-June, 2018 for the candidates who had been enrolled between the years 2001-2005 to the Engineering courses, leading to procuring of degrees through distance mode. It was further directed that if these candidates cleared the aforesaid examination within two attempts, their degrees be validated and all the advantages or benefits arising out of their degrees be conferred on them.

(7) The respondent, having been enrolled in the Engineering course through distance mode between the years 2001-2005, availed of the afore referred chance given by the Supreme Court. He appeared in the examination conducted by the AICTE-UGC, in terms of the directions issued by the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) and successfully cleared the same in first attempt. Accordingly, a certificate validating his degree originally obtained by him in the year 2007 was issued to him by the AICTE-UGC. On the strength of the observations made by the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) and validation of his degree by the AICTE-UGC, the respondent filed an application before this Court seeking final disposal of his pending petition. The respondent's petition was then listed for final hearing before a



learned Single Judge of this Court before whom the respondent relied on the observations of the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) and the certificate issued by AICTE-UGC which clearly validated his Engineering degree awarded to him in the year 2007. On the other hand, the State opposed the respondent's plea on the ground that the respondent could not have been granted the benefit of either the judgment of the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) or his validated degree for the reason that he was not in service on the date when the judgment was pronounced by the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra). Vide the judgment impugned through the instant intra court appeal the learned Single Judge rejected the State's objections and allowed the respondent's petition primarily relying on an earlier judgment of this Court dated 03.10.2023 rendered in ***CWP No.558 of 2015 – Rajeev Kumar Vs. State of Haryana and others.***

(8) Before us the learned State counsel has submitted that the respondent could not have been granted the benefit of the judgment of the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) and/or his validated degree in Engineering because on the day when the Supreme Court pronounced its judgment the respondent was not in service and in support of his contention he relied on the of the judgment of the Supreme Court dated 13.08.2019 passed in ***Contempt Petition (C) Nos.408-409 of 2019 in Civil Appeal Nos.17869-17870 of 2017 – Ashok Kumar and others Vs. Depinder Singh Dhesi and others.***



(9) On the other hand, learned counsel appearing for the respondent pressed into service the observations made by the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra). It was further submitted on behalf of the respondent that reliance by the State on the judgment in ***Ashok Kumar's*** case (supra) was misplaced. Rather, the observations made by the Supreme Court in its judgment in ***Ashok Kumar's*** case (supra) also supported the respondent's case as it had specifically been held therein that all the benefits that a candidate enjoyed on the day when the Supreme Court passed its judgment in ***Orissa Lift Irrigation Corporation's*** case (supra) would stand restored in case such candidate passed the test to be jointly conducted by AICTE-UGC in May-June, 2018.

(10) After hearing the learned counsel for the parties and carefully examining the record, the undisputed facts which emerge are that between the years 2001-2005, the respondent was enrolled in J.R.N. Rajasthan Vidyapeeth University, Udaipur to pursue his degree course in Civil Engineering through distance mode; he obtained his degree in Civil Engineering in the year 2007; through advertisement dated 07.08.2008, the Commission invited applications to appoint 33 SDE (Civil), which posts were later reduced to 24; out of the aforesaid posts 15 posts were meant for the General category; the respondent sought appointment against one of the 15 posts meant for the General category; as a result of consideration of the respondent's candidature, he stood at No.4 in the final merit list and that the respondent was denied appointment only on the ground that the degree in



Civil Engineering had been obtained by him through the mode of distance education.

(11) On 03.11.2017, the Supreme Court pronounced the judgment in ***Orissa Lift Irrigation Corporation's*** case (supra) through which it was held that degrees in Engineering conferred by deemed universities through distance mode were invalid but granted two chances to the students who had been enrolled between the years 2001-2005, to show their worth by successfully clearing an examination to be jointly conducted by AICTE-UGC in May-June, 2018. The Supreme Court further held that in case the aforesaid students passed the said examination within 02 attempts, their respective degrees would stand restored and fully revived. In this regard reference to paragraph Nos. 47 and 53(vi) of the judgment of the Supreme Court in ***Orissa Lift Irrigation Corporation's*** case (supra) is necessary and therefore, these paragraphs are reproduced below for reference: -

“47. The AICTE is directed to devise within one month from the date of this judgment modalities to conduct appropriate test/tests both in written examination as well as in practicals for the concerned students admitted during the academic sessions 2001-2005 covering all the concerned subjects. 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/tests their degrees shall stand recalled and cancelled. If a particular student does not wish to appear in the test/tests, the entire money



deposited by such student towards tuition and other charges shall be refunded to that student by the concerned Deemed to be University 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/tests in respect of students who wish to undergo test/tests shall be recovered from the concerned Deemed to be Universities by 31.03.2018. If they clear the test/tests within the stipulated time, all the advantages or benefits shall be restored to the concerned candidates. We make it clear at the cost of repetition that if the concerned candidates do not clear the test/tests within the time stipulated or choose not to appear at the test/tests, 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.

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- 49. xx xx xx xx xx
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- 51. xx xx xx xx xx
- 52. xx xx xx xx xx

53. *Accordingly, we direct:*

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- II xx xx xx xx xx
- III xx xx xx xx xx
- IV xx xx xx xx xx
- V xx xx xx xx xx

VI If the students clear the test/tests within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.”

(emphasis supplied)

(12) A perusal of the afore reproduced paragraphs of the judgment of the Supreme Court in **Orissa Lift Irrigation Corporation’s** case (supra)



leaves no room for any doubt in our minds that if a student who held an Engineering degree through distance mode and was enrolled in the said Engineering course between the years 2001-2005 passed the examination conducted jointly by AICTE-UGC in May-June, 2018 within two attempts, all the advantages or benefits under the Engineering degree possessed by him shall be restored and that his degree shall stand fully revived.

(13) The reliance by the learned State counsel on paragraph No.10 of the judgment of the Supreme Court in **Ashok Kumar's** case (supra) is found to be misplaced. Rather, the observations made by the Supreme Court in this paragraph support the respondent's case as in this paragraph the Supreme Court has observed that all the benefits being enjoyed by the degree holders through distance mode on the date of the judgment rendered by the Supreme Court in **Orissa Lift Irrigation Corporation's** case (supra) would get restored if these candidates would show their worth by passing the examination to be jointly conducted by the AICTE-UGC in May-June, 2018. Paragraph 10 of the judgment of the Supreme Court in **Ashok Kumar's** case (supra) reads as follows :-

“10. 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.



But if, the concerned candidates 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.”

(14) Thus, the respondent having been enrolled as a student to pursue his degree course in Civil Engineering between the years 2001-2005 in J.R.N. Rajasthan Vidyapeeth University, Udaipur, through distance mode and having passed the examination conducted jointly by the AICTE-UGC in June, 2018 would be entitled to enjoy all the fruits of his restored and validated degree in Engineering as on passing the test conducted by the AICTE-UGC in June, 2018 he has shown his worth. This would result in the restoration of the respondent’s merit position in the select list drawn by the Commission on 22.07.2009 and since he would then be meritorious enough, the direction to appoint him as SDE (Civil) would not constitute “any additional benefit” but would be a necessary consequence of the restoration of the benefit which had been taken away from him only on the ground that the degree possessed by him was through distance mode.



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- (15) In the light of the above discussion, we find no error, factual or legal, in the impugned judgment.
- (16) Dismissed.
- (17) All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

21.10.2024
sunil yadav

(ALOK JAIN)
JUDGE

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