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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22365-2023

Date of Decision:15.01.2024

JYOTI

..... Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Surender Pal, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel
for the respondent No.1-UOI.

Mr. Raghubir Tejpal, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 27.09.2023 (Annexure P-1) whereby respondent w.e.f 27.09.2023 has terminated petitioner from the post of Assistant Registrar (Group-A post).

2. The petitioner was appointed as Assistant Registrar vide appointment letter dated 17.11.2022. In the appointment letter, it was intimated that appointment is provisional and conditional subject to her suitability for the appointment and verification of documentary evidence. Her appointment was subject to completion of probation period of 1 year. The petitioner submitted her testimonials which included degree of graduation. The petitioner had sought degree of graduation through

distance mode. The degree has been issued by Manomaniam Sundaranar University (State University, Tamilnadu). The petitioner was not student of campus of the University whereas she secured her degree through distance mode. The said University was having a centre at Haryana and petitioner was enrolled with said centre. The respondent by impugned order dated 27.09.2023 has cancelled appointment of the petitioner on the ground that University from which petitioner has secured degree is a State University and it cannot operate beyond its territorial jurisdiction. The University is located at Tamilnadu, thus, the degree awarded with respect to a centre located at Haryana is not acceptable, in view of judgment of Supreme Court in '**Professor Yash Pal and another Vs. State of Chattisgarh and others**' 2005 (5) SCC 420 and '**Rai University Vs. State of Chattisgarh and others**' 2005 (7) SCC 330.

3. Learned counsel for the petitioner submits that by order dated 27.09.2023, the petitioner has been terminated from the post of Assistant Registrar forming an opinion that petitioner has obtained degree through distance education and University which granted degree was a State University. The petitioner has obtained degree of graduation from Manonmaniam Sundaranar University, State University which was permitted by UGC to extend education through distance mode. The University was stopped to provide distance education by UGC w.e.f academic year 2014-2015 and petitioner has obtained degree prior to that academic year.

In support of his contention he relies upon notification dated 10.06.2015 issued by Ministry of Human Resource Development (Department of Higher Education) and judgment of this Court in '**Ms.**

Neelam Devi and another Vs. Haryana Nurses Registration Council and others 2010 (6) SCT 656.

4. Per contra, learned counsels for the respondents submit that case of the petitioner is squarely covered by judgment of Supreme Court in ***‘Kurmanchal Institute of Degree & Diploma and others Vs. Chancellor, M.J.P Rohilkhand University and others’ (2007) 6 SCC 35*** as well as judgment of this Court in ***‘Kulwinder Pal Vs. Guru Nanak Dev University, Amritsar and others 2007 (13) SCT 62.***

5. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

6. The notification dated 10.06.2015 relied upon by petitioner is not applicable in the case in hand because the notification does not deal with degree obtained through distance education mode imparted by University beyond its territorial jurisdiction. The judgment dated 19.02.2010 in ***Neelam Devi (supra)*** has been passed by this Court in its peculiar facts. The case of the petitioner is squarely covered by judgment of Supreme Court in ***Kurmanchal Institute*** (supra) as well as Division Bench of this Court in ***Kulwinder Pal*** (supra).

7. In ***Kurmanchal Institute*** (supra) Supreme Court has clearly held that State University can operate within the boundaries of the territories. Such territorial jurisdiction of the University must be maintained as otherwise a chaos would be created. The relevant extracts of the judgment read as:

“19.The submission of the learned counsel that for the purpose of running a distance education course, extraterritorial activities must be carried out may not be entirely correct. It is one thing to say that the

university takes recourse to the correspondence courses for conferring degrees or diplomas but it would be another thing to say that study centres would be permitted to operate which requires close supervision of the university. In a study centre, teachers are appointed, practical classes are held and all other amenities which are required to be provided for running a full-fledged institution or college are provided. Such an establishment, in our opinion, although named as a study centre, and despite the fact that the course of study and other study materials are supplied by the university cannot be permitted to be established beyond the territorial jurisdiction of the university. Nainital is outside the territorial jurisdiction of the University. In fact it is not situated in the State of U.P. and, thus, is beyond the provisions of the Act.

20.The submission of the learned counsel that the UGC Regulations, 1985 provide for study centres of this nature cannot be countenanced. The UGC Regulations being a subordinate legislation must be read with the principal Act. The subordinate legislation will be ultra vires if it contravenes the provisions of the principal Act. (See Vasu Dev Singh v. Union of India) A statutory authority, it is well known, must act within the four corners of the statute. A fortiori it has to operate within the boundaries of the territories within which it is to operate under the statute. Such territorial jurisdiction of the university must be maintained as otherwise chaos would be created. If distance education of such a nature is to be encouraged, the only course would be to suitably amend the provisions of the Act.

21.We are not oblivious that in certain situations the territorial jurisdiction in relation to a university may

not be strictly enforced as was done in Sushanta Tagore v. Union of India but in the said matter, this Court was concerned with a totally different situation.

22. We, thus, are of the opinion that in this case we need not go into the other submissions raised by Ms Aggarwal.

23. The study centre of the appellants being situated in Nainital, is beyond the territorial jurisdiction of the respondent University. No writ of or in the nature of mandamus as has been prayed for in the writ petition can be issued.”

8. In ***Kulwinder Pal*** (supra), a Division Bench of this Court has held that UGC Regulations, 1985 being subordinate legislation had to be read with the principal Act. The University cannot operate beyond the boundaries of a territory as per its statute. The relevant extracts of the judgment read as:

“8. The Vice Chancellor has clearly held that correspondence course conducted by the Jammu University was not approved as equivalent to the Correspondence course of the Guru Nanak Dev University, by the Academic Council, at its meeting held on 31.1.2006.

*9. In **Kurmanchal Institute of Degree and Diploma v. Chancellor, M.J.P. Rohilkhand University, (2007)6 SCC 35 : [2007(4) SLR 601 (SC)]**, the Hon'ble Supreme Court held that study centres require close supervision of a University and the same could not be established beyond the territorial jurisdiction of the University for Distance Education Programme. The UGC Regulations, 1985 for study centres being subordinate legislation had to be read with the principal Act. The University has to operate within the boundaries of a territory as per its statute.*

10. *In the present case, the petitioner studies at Pathankot outside the territory of the Jammu University through some study centre, as stated by the learned counsel for the petitioner.*

11. *In view of above, we do not find any ground to interfere with the refusal of the University to recognise the degree obtained by Distance Education Programme when the petitioner never actually studied within the territorial jurisdiction of the University from which the degree was obtained.”*

9. In the wake of judgment of Supreme Court in **Kurmanchal Institute** (supra) and of this Court in **Kulwinder Pal** (supra), this Court is of the considered opinion that there is no infirmity in the impugned order warranting inference of this Court. The present petition deserves to be dismissed and accordingly dismissed.
10. It is made clear that respondent shall release salary of the petitioner for the period she had worked with the respondent.

(JAGMOHAN BANSAL)
JUDGE

15.01.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>