

(2013) 11 AP CK 0094

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13197 of 2010 and Contempt Case No. 640 of 2011

A. Balasya Goud

APPELLANT

Vs

A.P. State Housing Corporation Ltd. and 2 Others

RESPONDENT

Date of Decision : 11-11-2013

Acts Referred:

Citation : (2014) 3 ALD 478

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : M.V. Rama Rao, for the Appellant; D.V. Sudhir Kumar for respondent No. 1, Government Pleader for Housing for respondent No. 2 and Smt. A. Chayadevi, for the Respondent

Final Decision : Dismissed

Judgement

K.G. Shankar, J.—Whether the Diploma in Civil Engineering (DCE, for short) through distance education mode from the Institute of Advanced Studies in Education University (IASE University, for short), Gandhi Vidya Mandir, Sardarshahr, Rajasthan has recognition from appropriate authorities or not is the main question involved in this writ petition. The petitioner was appointed as a Draughtsman on 18-7-1990. By then, he possessed ITI qualification. He subsequently obtained DCE from IASE University in 2006 in distance mode education. Additional qualification of the petitioner was recognized by the 1st respondent-Andhra Pradesh State Housing Corporation Limited (the Corporation, for short) and entered the same in the Service Record of the petitioner on 20-6-2008. On 17-12-2008, A State-wide Provisional Seniority List was prepared wherein the petitioner was shown to possess DCE. There are only 4 Draughtsman. No objections were received from the Draughtsman for the Provisional Seniority List. In the meanwhile, G.O.Ms. No. 34, Housing (RH.1) Department, dated 13-10-2009 was issued amending the Service Rules of the 1st respondent-Corporation. Draughtsman (Grade-I) possessing Degree or Diploma became the requisite academic qualification for Draughtsman (Grade-I)

to be considered for promotion to the post of the Deputy Executive Engineer (DEE, for short). Roster Point No. 22 in a cycle of 32 vacancies was reserved for Draughtsmen (Grade-I) for promotion as DEE. As the petitioner possessed DCE, he was eligible for promotion as DEE. While so, the petitioner was posted as in charge of the DEE in 2009. He has been holding the same position as on today.

2. While things stood thus, the 1st respondent-Corporation issued fresh Provisional Seniority of Draughtsmen on 15-3-2010. The petitioner was shown to possess ITI only. DCE was not shown as the additional qualification possessed by him.

The 1st respondent-Corporation did not show DCE on the ground that the DCE obtained by the petitioner does not enjoy recognition.

3. The petitioner submitted his objections to the Provisional Seniority List. The objections, however, were overruled and the impugned Seniority List dated 05-5-2010 was issued. The petitioner obtained suspension of the impugned orders and to continue the petitioner as DEE.

4. On 02-12-2009, a learned single Judge of this Court passed orders in a batch of writ petitions filed by various persons questioning the non-recognition of various Courses run by Osmania University and other deemed Universities. After due consideration, the learned Judge held that study of Courses through distance mode education in IASE University, Rajasthan, cannot confirm recognized Degrees since such examinations were not conducted in accordance with the procedure prescribed by that University. Subsequently, orders in the batch of writ petitions were stayed by a Division Bench of this Court through orders dated 03-02-2010 in W.A.M.P. No. 122 of 2010 in W.A. No. 44 of 2010.

5. One of the contentions raised by the learned counsel for the petitioner is that the DCE possessed by the petitioner was earlier accepted and was entered in the Service Record of the petitioner and that the same has not been cancelled so far; consequently, the seniority of the petitioner cannot be altered as the Seniority List is meant for the determination of the seniority and not the qualifications.

6. The Principal Secretary to Government, Housing Department, Hyderabad addressed a letter to the 1st respondent-Corporation on 23-9-2008 informing the 1st respondent-Corporation as to the views of the Chairman, Andhra Pradesh State Council of Higher Education, Hyderabad. The Director of Distance Education Council clarified to the A.P. State Council of Higher Education, Hyderabad on 26-9-2006 that the distance education programmes offered by IASE University, Rajasthan have not yet been approved by the DEC. It is contended by the learned counsel for the petitioner that in spite of the letter by the Principal Secretary to Government, Housing Department, Hyderabad to the 1st respondent-Corporation on 23-9-2008, the 1st respondent-Corporation has recognized the Diploma obtained by the petitioner through Provisional Seniority List, dated 17-12-2008 and that the 1st respondent-Corporation cannot now go back on the recognition of the Diploma obtained by the petitioner.

7. The learned Standing Counsel for the 1st respondent-Corporation contended that the petitioner obtained DCE in 2006 and that on the basis of the letter of the Principal Secretary to Government, Housing Department, Hyderabad, dated 23-9-2008, the Seniority List of Draughtsmen was revised on 15-3-2010 and that there was no ground for the petitioner to complain on this count.

8. It may be noticed that the Seniority List dated 17-12-2008 is a Provisional Seniority List. The Seniority List was subsequently revised through Notice dated 15-3-2010 on the basis of the letter of the Principal Secretary to Government, Housing Department, Hyderabad. I do not consider that the petitioner can validly contend that the 1st respondent-Corporation is estopped from questioning the Diploma of the petitioner. It may be noticed that a Notification was issued by the Ministry of Human Resources Development on 01-3-1995 declaring that all the qualifications awarded through distance education by the Universities established by an Act of Parliament or State Legislation or deemed to be Universities u/s 3 of the University Grants Commission Act, 1956 and Institutions of National Importance are automatically recognized for the purpose of employment provided those courses have been approved by Distance Education Council (DEC, for short), Indira Gandhi National Open University (IGNOU, for short), New Delhi. He submitted that if the distance education course is recognized by the DEC, such a course automatically stands recognized and not otherwise.

9. The learned counsel for the petitioner also pointed out that the DEC, IGNOU wrote a letter to the Vice Chancellor of IASE University on 29-8-2007, that the DEC approved all the programmes of the University till 2005 and that from 2008 onwards, special permission is to be obtained once again from the DEC. While so, Andhra Pradesh State Council of Higher Education granted ex post facto recognition to all the programmes offered by IASE University till 2005 including Degrees through distance mode education. Recognition Policy of DEC shows that ex post facto approval of the Degrees was granted to IASE University till 2005 and regular recognition from 2007 till 2008. Thus, it is evident that after extensive considerations and discussions, various Degrees and Diplomas issued by IASE University till 2005 were recognized. The petitioner obtained the Certificate in December, 2006.

10. It is the contention of the learned counsel for the petitioner that as ex post facto recognition was given up to the year 2005, the DCE of the petitioner is recognized as the petitioner joined the Diploma Course in 2005. On the other hand, the learned Standing Counsel for the 1st respondent-Corporation contends that the petitioner shall be considered to be a Diploma Holder of 2006, so much so, his Diploma does not enjoy recognition.

11. The contention of the petitioner is that as he joined in 2005, his Diploma should be recognized.

The ex post facto recognition does not show that Diplomas commenced in 2005 also have recognition.

The Policy reads that the Degrees and Diplomas obtained till 2005 through distance education mode are recognized by way of ex post facto recognition. I am afraid that the petitioner can be called as a Diploma Holder of 2006 but not a Diploma Holder of 2005. It is not the joining date but it is the date on which the Degree/Diploma is obtained, which is important to determine whether the Degree is recognized or otherwise. If the ex post facto recognition was shown as Diplomas commencing in 2005, certainly the Diploma of the petitioner could have been recognized as an authorized Diploma.

The petitioner obtained the Diploma in 2006. Between 2006 and 2007, DCE of IASE University did not enjoy the recognition. Consequently, the 1st respondent-Corporation is justified in considering that the petitioner did not possess the requisite Diploma for consideration for promotion as DEE.

12. I therefore see no merits in this writ petition. This writ petition accordingly is dismissed. No costs. The contempt case in C.C. No. 640 of 2011 is filed for violating the orders in W.P.M.P. No. 16637 of 2010 dated 14-6-2010. The Court ordered interim suspension of Memo dated 05-5-2010 and to direct the 1st respondent-Corporation to treat the petitioner as Diploma Holder for the purposes of promotion to the post of DEE pending disposal of the writ petition. The contempt case is filed to implement the orders in the miscellaneous petition. The main writ petition, however, came up for consideration where it is found that the petitioner is not entitled to the relief. The interim orders in W.P.M.P. No. 16637 of 2010 stand merged in the final orders in the writ petition. Consequently, this contempt case has become infructuous. The contempt case is accordingly closed.