
(2010) 07 AHC CK 0021
In the Allahabad High Court
Case No : Writ Petition No. 12408 of 2007

Deen Dayal Bernwal	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 21-07-2010

Acts Referred:

Citation : (2010) 07 AHC CK 0021

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudhir Agarwal, J.—Writ petition has been restored to its original number vide order of date passed on review/restoration application. As requested by learned Counsel for the parties, the writ petition is taken up for hearing and is being disposed of finally.

Learned Counsel for the parties agree that since the matter in this case is squarely covered by another decision of this Court, therefore, it may be finally disposed of in terms of the aforesaid judgment.

The only question involve in this matter is whether the practical marks obtained by the Petitioner in B.P.Ed. should be counted or not for the purpose of judging his merit for admission to Special B.T.C. course.

This aspect of the matter has attained finality vide judgment of this Court in Writ Petition No. 9445 of 2005 Shashikant Shukla v. State of U.P. and Ors. whereagainst Special Appeal No. (396) of 2007 has been dismissed on 7.8.2008 and, thereafter, SLP has also been dismissed.

2. Following the judgment of Shashikant Shukla (supra), another Special Appeal No. 418 of 2005 Pradyumn Dutt Singh v. State of U.P. and Ors. was decided on 1.9.2008 and the SLP of the State against the judgment in Pradyumn Dutt Singh has also been dismissed by the Apex Court on 8.5.2009. Same view has been

taken in Writ Petition 36199 of 2005 Mahesh Prasad Tiwari v. State of U.P. and Ors. and benefit of the said judgment has been extended to another Petitioner Sunil Kumar Mishra in Writ Petition No. 42912 of 2004 decided on 29.5.2009 by another Hon"ble Judge. These facts are not disputed by the learned Standing Counsel. He also could not give any good reason for this Court to take a different view in the matter.

3. In the these circumstances, the writ petition is allowed. The order dated 29.07.2005 is hereby quashed. The Petitioner is permitted to make a suitable representation before the competent authority within ten days from today and in case such a representation is made, the authority concerned will consider the same in accordance with the law laid down in Shashikant Shukla (supra), Pradyumn Dutt Singh (supra) and Mahesh Prasad Tiwari (supra) and pass appropriate order in accordance with law within three weeks from the date of submitting the aforesaid representation by the Petitioner. In case, the Petitioner is found to have secured sufficient marks to be placed in merit at appropriate position entitling him to be sent for training in the aforesaid course, further steps would be taken by the Respondents without any further delay.

No order as to costs.

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4. Heard learned Counsel for the applicant and perused the record.

Learned Counsel for the applicant submitted that by mistake he could not point out to this Court when this matter was earlier taken up that the question whether B.P.Ed. degree, which he has obtained, is duly recognised or not was already considered by this Court in Writ Petition No. 43567 of 2005 decided on 27.05.2005 wherein this Court held that the same was duly recognised and the only issue in this case was whether practical marks in B.P.Ed. ought to be excluded or not. He under some mistaken notion could not dispute the fact about recognition of B.P.Ed. degree when this objection was raised by learned Standing Counsel. He drew my attention to Annexure-5 to the writ petition which is a judgment of this Court passed in earlier writ petition where the question about recognition of B.P.Ed. degree of Petitioner was considered and decided.

5. Having gone through the record and considering the submission, I find his submission correct and it appears that on account of some mistake on the part of the learned Counsel for the Petitioner which appear to be quite bonafide the judgment dated 05.12.2009 has been passed which is also even otherwise in the teeth of the earlier decision dated 27.05.2005. Learned Standing Counsel could not dispute the above situation.

The judgment dated 05.12.2009 is hereby recalled and the writ petition is restored to its original number.