**(2011) 05 P&H CK 0102**

**In the Punjab And Haryana At Chandigarh**

**Case No :** C.W.P. No. 3928-CAT of 2011

Deputy Regional Director, Staff Selection Commission — APPELLANT

Vs

Jashanjit Singh and Others — RESPONDENT

**Date of Decision :** 26-05-2011

**Acts Referred:**
Constitution of India, 1950 — Article 226

**Citation :** (2011) 163 PLR 596

**Hon'ble Judges :** M.M. Kumar, J;Gurdev Singh, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

M.M. Kumar, J.—This petition filed under Article 226 of the Constitution challenges order dated 15.3.2010 (P-4) rendered by the Chandigarh Bench of the Central Administrative Tribunal (for brevity, ''the Tribunal'') allowing the original application filed by the applicant respondent No. 1 and directing the respondent-petitioner to issue appointment order to him for the post of Inspector of Income Tax within a period of one month from the date of receipt of a copy of the said order.

2. Brief facts of the case are that on 14/20.10.2006, the petitioner-Staff Selection Commission issued a notice/advertisement (A-I) for conducting Combined Graduate Level (Preliminary) Examination, 2006 for filling up various posts including the post of Inspectors of Income Tax. Under the heading of ''Educational Qualifications'', it was provided as under:

5. EDUCATIONAL QUALIFICATIONS:

Essential Qualification for all posts as on 01.08.2007 (1st August, 2007):

Graduation in any discipline from a recognised University or equivalent as on 01.08.2007.

Note-I: Candidates who have not acquired or who are not able to acquire the educational qualification on the stipulated date are not eligible and need not apply.

Note-II: All candidates who are declared-qualified by the Commission for appearing at the interview will be required to produce the relevant Certificates in Original such as Marksheets for all 3 years/Provisional Certificate/Certificate of Graduation proof of acquiring the minimum educational qualification as laid down in the Notice as a result of which the candidate has claimed to be educationally qualified on the date mentioned above, failing which the candidature of such candidates will be cancelled by the Commission.

Note-III....

3. The applicant-respondent No. 1, who was pursuing his Bachelor of Engineering (Food and Technology) course from Panjab University Chandigarh, which consists of total 8 Semesters, applied for the post of Inspector of Income Tax in response to the said Notice/Advertisement. It is undisputed that he had cleared the examination of 7th and 8th Semesters of said Course held in December 2005 and May 2006, the results, whereof were declared on 7.6.2006 and 26.7.2006 (A-7 and A-8 respectively). Sincere could not clear the examination of 6th Semester by that time, therefore, his final result was not declared by the Panjab University. He appeared for the 6th Semester examination held in May 2007. The result of said examination though was declared on 1.8.2007 but it was notified on the next day i.e. 2.8.2007.

4. In the selection process for the post of Inspector of Income Tax, after the applicant-respondent No. 1 cleared the written examination, he was called for interview on 11.6.2008, vide letter dated 13.5.2008 (A-5). Thereafter, in the Employment News Paper dated 25 April - 1 May 2009, a list of candidates recommended for appointment as Inspector of Income Tax was published (A-6). The name of the applicant-respondent No. 1 appeared at Sr. No. 66. However, he was not issued the appointment letter by the petitioner-Staff Selection Commission on the ground that he failed to submit any proof of having basic educational qualification of Graduation on the cut-off date i.e. 1.8.2007. On 4.5.2009, the applicant-respondent No. 1 made a representation to the petitioner-Staff Selection Commission to treat him eligible because he passed the examination of Graduation on 1.8.2007 (A-12). Eventually, he filed O.A. No. 420-PB- 2009 before the Tribunal. On 15.3.2010, the Tribunal allowed the said OA by holding as under-

4. Annexure A-13 dated 28.4.2009 is a representation submitted by applicant to the Controller of Examination, Panjab University, Chandigarh, with a request to declare him as Graduate as on 1.8.2007. Remarks have been made on application itself by authorities whether a certificate can be issued for declaring the applicant as Graduate on 1.8.2007. It was advised that though University cannot change the Notification/DMC issued to the applicant but there is no bar in issuance of a separate certificate that result of 6th Semester was declared on

 

1.8.2007. Thus, it is not in dispute that the result was declared on 1.8.2007 after which one can safely say that applicant became graduate on 1.8.2007. However, merely because there was delay in notification of the result just by one day i.e. it was declared on 2.8.2007, it cannot be said that he has to be taken as Graduate only after 2.8.2007.

Therefore, in our considered opinion, it cannot from any stretch of imagination, be said that applicant was not a graduate on 1.8.2007 as the requirement of qualification prescribed in the advertisement is that one should be a graduate as on 1.8.2007, without any reference to the date of notification of the result. It is not disputed that the applicant stands qualified in the examination and only appointment order is to be issued to him.

5. Having heard learned counsel for the parties at considerable length we are of the considered view that there is no exception to the view taken by the Tribunal warranting interference of this Court. It has remained undisputed that the result of left out 6th Semester examination has been declared on 1.8.2007. The Result-cum-Detailed Marks Sheets of 7th and 8th Semesters have been issued on 2.8.2007 (A-2 & A-3), finally declaring the applicant-respondent No. 1 as ''Pass''. Moreover, in the degree issued by the Panjab University, the applicant-respondent No. 1 is shown to have obtained the ''Degree of Bachelor of Engineering (Food Technology)'' having passed the examination held in May, 2007 in the Second Division (A-4). We are of the view that a degree issued by a University is the conclusive proof of having cleared a particular examination. Thus, there is no legal infirmity in the view expressed by the Tribunal warranting admission of the instant petition.

6. In view of the above, this petition fails and the same is accordingly dismissed.