
(2014) 01 P&H CK 0303
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 16622 of 2011

Sunil Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 14-01-2014

Acts Referred:

Citation : (2014) 01 P&H CK 0303

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Balraj Singh Dhull, Advocate for the Appellant; Sunil Nehra, Sr. DAG, Haryana, Advocate for the Respondent

Judgement

Augustine George Masih, J.—Petitioner has approached this Court assailing the action of the respondents in not permitting him to join on the post of Radiographer in pursuance to his selection against the vacancy reserved for a Scheduled Castes category in pursuance to the advertisement No.4 of 2008 dated 08.07.2008 (Annexure P-2).

2. It is the contention of the counsel for the petitioner that the petitioner passed his three years' degree course from the Allahabad Agriculture Institute, Deemed University, in the year 2007. The session of period of his study was 2004-07. The said course has been recognized by the Director, Distance Education Council (Indira Gandhi National Open University), New Delhi. In this regard, he places reliance upon the communication dated 05.12.2011 (Annexure R-2) received by the Director General, Health Services, Haryana, from the Indira Gandhi National Open University where it is mentioned that the 3rd Joint Committee of UGC, AICTE & DEC has granted one time post facto approval through distance mode till 2005 courses conducted by the Allahabad Agriculture Institute. It has further been stated that provisional recognition for one academic year i.e. 2007-08 till Expert Committee gives its report, has also been granted. Provisional as well as post facto recognition has been granted to the Allahabad Agriculture Institute for offering programmes through distance mode which would include the period

within which the petitioner has obtained his degree, copy whereof is appended as Annexure P-1. He, accordingly, submits that the action of the respondents cannot sustain and deserves to be set aside with a direction to the respondents to permit the petitioner to join on the post of Radiographer and also to grant him the consequential benefits.

3. On the other hand, counsel for the respondents, again referring to the communication dated 05.12.2011 (Annexure R-2) submits that in the period 2005-07, there is no recognition to the course in question and, therefore, the petitioner who has passed his course in the session 2007, cannot grant the benefit of the said communication in any case. He submits that a Committee was constituted by the respondents which has submitted its report dated 22.12.2011 (Annexure R-3) where the degree possessed by the petitioner has been found to be not equivalent to the degree/diploma held from the Medical College, Rohtak or its equivalent. He further states that the approval is also not forthcoming from the Regulatory Committee and, therefore, the degree of the petitioner has rightly been treated to be not recognized for the purpose of appointment for the post of Radiographer. Prayer has, thus, been made for dismissal of the petition.

4. I have considered the submissions made by the counsel for the parties and with their able assistance have gone through the records of the case.

5. The basic document which would determine the fate of the claim as made by the petitioner in the present petition is the communication dated 05.12.2011 (Annexure R-2). It would, thus, be appropriated that the communication be reproduced in toto which reads as follows:-

"Sub:Regarding equivalency of technical qualification awarded by Allahabad Agriculture Institute (Deemed University, Allahabad).

Dear Sir,

This is with reference to your letter No. 2/2(SSS)-3E-III/- 2011/1762, dated 25.11.2011 on the subject cited above. We would like to mention that this office has already replied to your letter Memo No.2/2-3 EM 2011/17188, dated 20.10.2011 regarding the validity/approval of the degree (bachelor of Radiology and Imaging Technology) obtained by Shri Sunil Kumar from Allahabad Agriculture Institute, Deemed University, Allahabad. (Copy enclosed). However, we are providing the following information pertaining to the status of recognition AAI-DU as here under:

Allahabad Agriculture University had been granted one- time post facto approval as per a decision taken by the third Joint Committee of UGC, AICTE & DEC for the programmes (approved by the statutory bodies of the university), offered through distance mode till 2005. The above university has also been accorded provisional recognition for one academic year i.e. 2007-08 till the expert committee visit the submission of its recognition with certain conditions. It may be noted that during the provisional as well as post-facto recognition, the DEC

has given institutional recognition to the above university for offering programmes (approved by its statutory bodies) through distance mode. DEC has not given approval to any specific programme. In this connection, DEC maintains that for offering Professional and Technical Programmes, it is the sole responsibility of the university to obtain necessary approval from the concerned regulatory body, wherever required.

Further, the Joint Committee of UGC, AICTE & DEC has also accorded recognition to the above university for period of 3 years from 2009-10 to 2011-12 for offering certain programmes that include B.Sc in Radiology and Imaging Technology. The information may also be accessed at DEC website www.dec.ac.in."

6. A perusal of the above communication clearly states that till the session 2005, the course which the petitioner has obtained and subsequent thereof for the session 2007-08 is recognized. The interregnum period is also covered by the expression reproduced as under:-

"It may be noted that during the provisional as well as post-facto recognition, the DEC has given institutional recognition to the above university for offering programmes (approved by its statutory bodies) through distance mode."

7. In any case, the date when the petitioner has sought recognition in the course in question, the same was recognized by the competent authority which is not in dispute, however, for the subsequent period in the light of the above referred to portion of the communication, there is no doubt, the degree, thus, obtained by the petitioner cannot be said to be duly recognized by the competent authority.

8. The report of the Committee on which Annexure R-3 reliance has been placed by the respondents will, thus, not have any impact upon the validity of the degree obtained by the petitioner. The action of the respondents in not allowing the petitioner to join the duty even after his selection, thus, cannot be sustained.

9. The writ petition stands allowed and direction is issued to the respondents to allow the petitioner to join on the post of Radiographer. The appointment letter to the petitioner be issued within a period of two weeks from the receipt of certified copy of this order.

10. It goes without saying that the petitioner shall be entitled to all consequential benefits except monetary benefits from the date similarly selected candidates out of the same selection were appointed.