

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

Original Application No.353/2018

Date of C.A.V. : 26.10.2018

Date of Order : 26. 04.2019

Between :

1. P.Satyanarayana, S/o P.Veerabhadru,
Aged 57 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),
Prasara Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Ramanthpur, Hyderabad.
2. Malwath Nowsi Naik, S/o Kishan Lal,
Aged 54 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),
Prasar Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Ramanthpur, Hyderabad.
3. P.Sudheer Jawahar, S/o P.Yadagiri,
Aged 53 years, Occ : Assistant Engineer,
(Under the orders of transfer, not yet reported at the new station),
O/o The Deputy Director General (Engineering),
Prasar Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Ramanthpur, Hyderabad.
4. M.P.Madhusudan Rao, S/o M.Narasimha Rao,
Aged 54 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),
Prasar Bharathi (Broadcasting Corporation of India),
All India Radio, Kadapa – 516 003.
5. N.Ramanjaneyulu, S/o N.Sanjeeva Rayudu,
Aged 55 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),
Prasar Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Vijayawada.
6. S.Venkata Lakshmi, D/o S.S.Prasada Rao,
Aged 53 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),

Prasar Bharathi (Broadcasting Corporation of India),
All India Radio, Opp : Assembly Bhavan, Hyderabad.

7. C.Padmaja, D/o P.Narsimhulu,
Aged 53 years, Occ : Assistant Engineer,
O/o The Deputy Director General (Engineering),
Prasar Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Ramanthpur, Hyderabad.

... Applicants.

And

1. Union of India, represented by
The Secretary, Ministry of
Information & Broadcasting,
Shastri Bhavan, New Delhi – 110 011.

2. F.Sheheryar,
The Director General, Prasara Bharathi,
(Broadcasting Corporation of India),
All India Radio, Akashvani Bhavan,
Parliament Street, New Delhi.

3. The Director General, Prasara Bharathi,
(Broadcasting Corporation of India),
Doordarshan Bhavan, Copernicus Marg,
Mandi House, New Delhi.

4. The Deputy Director General (Engineering),
Prasara Bharathi (Broadcasting Corporation of India),
All India Radio, Doordarshan, Ramanthpur,
Hyderabad.

5. The Deputy Director General (Engineering),
Prasara Bharathi (Broadcasting Corporation of India),
All India Radio Opp : Assembly Bhavan,
Hyderabad.

6. The Deputy Director General (Engineering),
Prasara Bharathi (Broadcasting Corporation of India),
All India Radio, Kadapa – 516 003.

7. The Deputy Director General (Engineering),
Prasara Bharathi (Broadcasting Corporation of India),
Doordarshan Kendra, Vijayawada.

... Respondents.

Counsel for the Applicant	...	Mr.K.R.K.V.Prasad, Advocate
Counsel for the Respondents	...	Mr.S.M.Arif for Mr.I.Koti Reddy, Addl.CGSC

CORAM:

<i>Hon'ble Mr.Justice R.Kantha Rao</i>	...	<i>Member (Judl.)</i>
<i>Hon'ble Mrs.Naini Jayaseelan</i>	...	<i>Member (Admn.)</i>

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The applicants are Assistant Engineers in various Units under the Broadcasting Corporation of India known as Prasar Bharathi. In terms of the recruitment rules to promotion to JTS grade they are eligible for promotion. In view of the litigation in respect of B.Tech. Degree course offered by JNTU, Hyderabad through Distance Education Mode, the respondents – Prasar Bharathi which earlier included the names of the applicants has not included the names of the applicants in the eligibility list dated 06.04.2018. It is submitted by the applicants that after the Hon'ble Supreme Court rendering the judgement on 10.04.2018 in SLP (C) filed by JNTU, Hyderabad holding interalia that the admissions granted by the JNTU prior to the academic year 2009-2010 should be intact. The applicants submitted representations to the respondents to declare them as eligible for promotion on the ground that their educational qualification of B.Tech degree course is valid in law in view of the judgement of Hon'ble Supreme Court. The second respondent without issuing proceedings of eligibility in favour of the applicants and not including their names in the list of eligible Assistant Engineers who are to be considered for promotion to JTS grade proceeded to hold DPC on 17.04.2018. According to the applicants the

department ought to have made a distinction between the Degrees awarded by Deemed to be Universities and the Degrees awarded by the JNTU, Hyderabad which is not a Deemed to be University but was created under a State Enactment. They submitted that the Hon'ble Supreme Court decided Civil Appeal No.3697-3698 of 2018 in the case of JNTU Vs. CMD, Transmission Corporation of Telangana Limited which relates to degrees offered by JNTU, Hyderabad. The Hon'ble Supreme Court vide order dated 10.04.2018 inter alia directed that the degrees and diplomas in question already granted by the appellant University to candidates admitted upto academic year 2009-2010 may be left undisturbed. According to them except Applicant No.2 who studied B.Tech. Degree course on part-time basis, the remaining applicants studied B.Tech degree course in JNTU, Hyderabad way back before the 2009 academic year and hence the applicants are squarely covered by the above judgement of the Hon'ble Supreme Court and the degree granted by JNTU, Hyderabad in their case has to remain undisturbed for any benefit accrue out of such degree. The second respondent which had consistently considered the applicants as eligible for promotion to the grade of JTS, surprisingly not included the names of the applicants in the list of eligible Assistant Engineers who were considered for promotion to the JTS grade circulated vide proceedings dated 06.04.2018. In the eligibility list circulated on 06.04.2018 the names of number of their juniors are included. They approached the Tribunal with the grievance that if the DPC proceedings are finalized and promotions are granted in favour of the juniors without considering the cases of the applicants, serious prejudice will be caused to the applicants apart from loss

of status and loss of monetary benefits.

2. It is under these circumstances, the applicants filed the present OA to declare the action of the respondents in not considering the applicants as eligible for promotion to the Junior Time Scale grade even after the Hon'ble Supreme Court rendering the judgement in Civil Appeal Nos.3697-3698 of 2018 dated 10.04.2018 as arbitrary, illegal, unjust, discriminatory and further direct the respondents to declare them as eligible for promotion and consider them for promotion to the post of Junior Time Scale grade on par with their juniors and accordingly promote them by granting all consequential benefits. The applicants also sought an interim direction to include their names in the eligibility list for the purpose of promotion to the JTS grade and to consider their names for promotion. The Tribunal referring to the direction of the Hon'ble Supreme Court in Civil Appeal No.3697-3698/2018 passed an interim order dated 16.04.2018 directing the respondents to include the names of the applicants for the purpose of promotion to JTS grade and also consider their names subject to their fulfilling the requisite criteria.

3. The respondents in their reply statement contended inter alia as follows :

The Hon'ble High Court at Hyderabad by its order dated 19.01.2018 in W.P.No.34857/2017 has set aside the TOO No.151 dated 13.10.2017 upholding TOO 134 dated 11.09.2008. The Andhra Pradesh Government vide TOO No.151

dated 13.10.2017 had amended the TOO 134 dated 11.09.2008 by inserting sub-
paras 6(i)(b), 6(i)(c) and 6(i)(d). Out of which para 6(i)(b) is relevant for the
purpose which is as under :

“The B.Tech Degree offered by School of Continuing and distance Education (SCDE) JNTUH in the Correspondence cum-contact (CCC) mode needs to be treated as equally valid degree like any other B.Tech Education (SCDE), JNTUH in the Correspondence cum-contact (CCC) mode needs to be treated as equally valid degree like any other B.Tech (classroom teaching) degree offered by the Universities for all purposes of education and employment. However this would be restricted to the students who got admitted till the year 2009 but got the degree later on as per the academic rules and regulations of JNTUH.”

4. The order of Hon'ble High Court of A.P. dated 19.01.2018 in Writ Petition No.34857/2017 and 1683/2017 was challenged before the Hon'ble Supreme Court by JNTUH in C.A.No.3697-3698/2018. After hearing the arguments the Hon'ble Supreme Court observed that “the view taken by the High Court of Andhra Pradesh in its order dated 19.01.2018 is correct in law. In view of distinguishing features in the present case noted in the order issuing notice, while directing that norms must be followed in future, the degrees and diplomas in question already granted by the appellant – University to candidates admitted upto academic year 2009-2010 may be left undisturbed. To this extent, the impugned order stands modified.”

5. The respondents sought to interpret the order of the Hon'ble Supreme Court stating that the special dispensation given by the Hon'ble Supreme

Court to those candidates who have obtained degree through various institutions for appearing in the test to be conducted by AICTE in May-June, 2018 is also extended to such candidates who had obtained similar degree from JNTU upto the year 2009-10. Meaning thereby, such candidates can also appear for the examination to be conducted by AICTE. Therefore, the contention of the respondents seems to be that the department will not disturb the candidates from their existing status if they appear in the examination to be conducted by AICTU and qualify in the examination. Only if they qualify in the examination their degrees will be treated as valid and considered for further promotions in future. It is reiterated by the respondents that the names of the Officers/Assistant Engineers are included in the eligibility list circulated on 06.04.2018, those who are having the regular degree as per the recruitment rules. Therefore the version of the applicants that the names of the juniors of the applicants are included in the eligibility list is not correct.

6. Nextly it is contended that the DPC was was already held on 17.04.2018 in terms of the eligibility list circulated on 06.04.2018 by which time the respondents were not in receipt of the certified copy of the interim order dated 16.04.2018 passed by the Tribunal and it has been received by the respondents subsequent to the date of DPC i.e. 17.04.2018. Contending as above the respondents sought to dismiss the OA.

7. We have heard Mr.K.R.K.V.Prasad, learned counsel for the applicants and Mr.S.M.Arif representing Mr.I.Koti Reddy, learned standing counsel for the respondents.

8. The point for determination in the present OA is as to whether in terms of the judgement of Hon'ble Supreme Court in C.A.No.3697-3698/2018 the educational qualification of B.Tech degree course obtained by the applicants is valid in law; and whether a direction can be issued to the respondents to declare the applicants as eligible for promotion to Junior Time Scale grade as prayed for in the OA.

9. To deal with the issue it would be necessary to refer to the following judgements relied on by the learned counsel appearing for the applicants :

(i) *Bharathidasan University and another vs. All India Council for Technical Education and others {(2001) 8 SCC 676}*

In this case the Hon'ble Supreme Court held that All India Technical Education Act 1987 does not require a University to obtain prior approval of AICTE for starting a department or Unit as an adjunct to the University itself to conduct technical education courses of its choice. However the University is obliged to confirm the standards and norms of the AICTE.

(ii) *Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others {(2018) 1 SCC 468}*

In this case a question arose before the Hon'ble Supreme Court as to

whether the deemed to be Universities were also entitled to similar protection as was accorded to State or Central Universities in terms of the decision in Bharathidasan University. In this case the Hon'ble Supreme Court held that 1994 AICTE regulations do apply to deemed to be universities and the deemed to be universities were not justified in introducing any new courses in Technical education without the approval of the AICTE. All the degrees in Engineering awarded by the deemed to be Universities without the approval of AICTE were suspended. However an option was given to the students concerned whose degrees were suspended by 15.01.2018 to appear at the test(s) to be conducted in accordance with the direction in para-58 and the students be given not more than two chances to clear the test(s) and if they do not successfully clear the test(s) within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in paras-57 and 58 of the judgement.

(iii) *Writ Petition (Civil) No.905 of 2018 – Jai Singh and others vs. University Grants Commission and others.*

In this case the Hon'ble Supreme Court held that a deemed to be university without there being any approval from AICTE could not start courses leading to award of degrees in Engineering through Open Distance Learning. The Hon'ble Supreme Court rejected the submission that the deemed to be universities were also entitled to similar protection as was accorded to State or Central Universities in terms of the decision in the case of Bharathidasan University.

10. In the instant case the applicants obtained B.Tech degrees from JNTU,

Hyderabad which was created under the State enactment and there is distinction between the degrees awarded by the deemed to be universities and the degrees awarded by the University which was created under a State or Central enactment. Therefore, the contention of the respondents that the applicants also have to appear for the examination to be conducted by AICTE and have to qualify in the said examination for the purpose of recognition of their degrees cannot be accepted.

11. In ***Writ Petition (C) No.382/2018 Mukul Kumar Sharma and others vs. All India Council for Technical Education and others*** also the Hon'ble Supreme Court held that where a University had been set up by a State Statute, it is enough that AICTE norms should be followed while granting B.Tech degree/diploma, but the AICTE approval for the said course is not necessary.

12. In ***Jawaharlal Nehru Technological University Registrar vs. The Chairman and Managing Director Transmission Corporation of Telangana Limited and others Civil Appeal No.3697-3698 of 2018*** the Hon'ble Supreme Court in para-6 of the judgement held as follows :

“While we find merit in the submission of learned counsel for the respondents that the view taken by the High Court is correct in law, in view of the distinguishing features in the present case noted in the order issuing notice, while directing that norms must be followed in future, the degrees and diplomas in question already granted by the appellant – University to candidates admitted up to academic year 2009-2010 may be left undisturbed. To this extent the impugned order stands modified.”

13. Therefore, the Hon'ble Supreme Court modified the order of the High Court which said that norms of the AICTE have to be followed and distance learning will not be permitted at all in technical education subject to the concession given in the case of Orissa Lift Irrigation Corporation Ltd., and held that the norms laid down by the AICTE have to be followed in future, but the degrees and the diplomas in question already granted by the appellant – University to the candidates admitted up to the academic year 2009-2010 may be left undisturbed. Since the decision relates to the degrees and the diplomas awarded by the JNTU and in view of the fact that the Hon'ble Supreme Court specifically held that the degrees and diplomas in question may be left undisturbed, this Tribunal cannot take a different view basing on the judgements relied upon by the learned standing counsel for the respondents. The contention that the special consideration given by the Hon'ble Supreme Court to those candidates who had obtained degrees through various institutions directing them to appear for the test to be conducted by AICTE would apply to the applicants has no force. The Tribunal has to pass order in the present OA strictly basing on the decision rendered by the Hon'ble Supreme Court in the above case and it shall not try to interpret the order of the Hon'ble Supreme Court basing on the judgements relied on by the learned standing counsel for the respondents. The reason being decision of the Hon'ble Supreme Court in C.A.No.3697-3698/2018 is directly applicable to the case of the applicants in the present OA.

14. For the foregoing reasons, the respondents are directed to declare

the applicants as eligible for promotion to the Junior Time Scale Grade treating the Degrees obtained by them as valid and consider them for promotion to the post of Junior Time Scheme on par with their juniors by granting all consequential benefits.

15. The OA therefore succeeds and accordingly allowed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)
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(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)