

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 17524 of 2015 (M)

PETITIONER(S) :

1. SABITH M.,
AGED 32, MANALODI HOUSE
MANGALAM POST, CHENNARA VIA.,
MALAPPURAM DISTRICT – 676 561.
2. AJEESH KUMAR V.A.,
AGED 32, S/O. AYYAPPAN
VAZHAVALAPPIL HOUSE
CHERUVALOOR P.O., KORATTY VIA.,
PIN – 680 308, THRISSUR DISTRICT.
3. AYOOB AHAMMED A.,
AGED 31, S/O. A. AHAMED KABEER
KARUNA MEDICALS, COURT ROAD
ALATHUR P.O., - 678 541
PALAKKAD DISTRICT.
4. SREERAJ P.,
AGED 29, S/O. P. SUDHAKARAN
PATHRATH HOUSE, KIZHAKKOTH P.O.,
KODUVALLY, KOZHIKODE – 673 572.
5. RESHMA K.S.,
AGED 25, S/O. SHAJI KOCHUPARAMBIL
KOCHUPARAMBIL HOUSE
VALIYATHRAPADY, VALLUVANGAD SOUTH P.O.,
MALAPPURAM DISTRICT, PIN – 676 521.
6. SOPHIA K.G.,
AGED 29, D/O. K. GANGADHARAN
KURUNGATTU HOUSE
PEECHI P.O., THRISSUR DISTRICT- 680 653.
7. PRAVEEN JAMES ANTONY
S/O. JAMES N.A., NELLISSERY HOUSE
SBI COLONY, OLLUKKARA
THRISSUR – 680 655.

BY ADVS.SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SMT.VINAYA V. NAIR

RESPONDENT(S) :

1. UNIVERSITY OF CALICUT
REPRESENTED BY REGISTRAR
CALICUT UNIVERSITY P.O., - 673 635.
2. CONTROLLER OF EXAMINATION
UNIVERSITY OF CALICUT.

R1 & R2 BY ADV. SRI.SANTHOSH MATHEW, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-07-2015,
THE COURT ON 10-07-2015 DELIVERED THE FOLLOWING:

Mn

...3/-

WP(C).No. 17524 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE ORDER NO. 731/2013/CU DATED 13.3.2013 OF DEPUTY REGISTRAR OF UNIVERSITY OF CALICUT.

EXT.P2 COPY OF THE NOTIFICATION DATED 27.5.2014 ISSUED BY UNIVERSITY OF CALICUT.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17524 of 2015

Dated this the 10th day of July, 2015.

JUDGMENT

Aggrieved by the denial of the respondent university in extending the benefit of the moderation to the petitioners who have failed only in a single paper and have secured more than 30% of the total marks in the relevant paper, they have come up before this Court.

2. Petitioners are students of 5 year LL.B course (old scheme without internal assessment). Petitioners allege that they attended for the Special Supplementary Exam conducted by the respondent university in November, 2014. The petitioners got pass mark in all papers except one paper. The respondent university had taken a decision in the year 2013 to award 20 marks as moderation to those who have completed the LL.B course (old scheme without internal assessment) and has failed only in a single paper and has scored 30% marks in the relevant paper. The petitioners have failed only in a single paper and have scored more than 30% of the total marks in

the relevant paper. However, the respondents have not extended the benefit of the above order for the reason that the said order is not applicable to the Special Supplementary Exam. Petitioners further allege that such a stand is without any basis since the notification pertaining to the Special Supplementary Exam does not exclude the applicability of the said order. It is further stated that there will be no provision for revaluation/recounting. The petitioners approached the respondents several times. But they were asked to wait since the matter is about to be considered by the Standing Committee of the University. However, no decision has been taken yet; it is alleged.

3. In the statement filed by the respondent university, it is submitted that the Standing Committee of the Syndicate on examinations held on 7.5.2015 discussed the matter of granting special moderation to the candidates for special supplementary examination June 2014 and resolved for a detailed study in the matter. As per the guidelines of Special Supplementary Exam Unit, there is no provision for photocopy,

scrutiny/revaluation of answer scripts. Besides, the above mentioned order is silent about the moderation to the candidates who appeared in the special supplementary examinations. No revised order in this regard has been issued by the University till date.

4. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent University.

5. Admittedly, the petitioners have failed in one of the papers of the supplementary examinations conducted in June, 2014. The stand taken by the university is that as per the guidelines of the supplementary examinations, there is no provision for scrutiny or revaluation of answer sheets.

6. The learned counsel for the petitioners would invite my attention to Ext.P1 which is the general order dated 13.3.2013 which reflects that the respondent university had taken a decision in the year 2013 to award 20 marks as moderation to those who have completed LLB course (old scheme without internal assessment) and has failed only in a

single paper and has scored 30% marks in the relevant paper. Evidently, the petitioners have scored the aforesaid 30% in the paper in respect of which they are claiming the benefit of Ext.P1. The learned counsel for the petitioners also invited my attention to Ext.P2 dated 27.5.2014 issued by the respondent university which pertains to supplementary examination. It was pointed out that Ext.P2 does not exclude the applicability of Ext.P1. I see a valid force in the said submission. The respondent university also admits in their statement that Ext.P2 order is silent about the moderation to the candidates who appeared in the supplementary examinations. If the respondent university was against granting moderation to the students who appeared in supplementary examination, they should have issued orders clarifying the position. So long as, there is no exclusion of Ext.P1 in Ext.P2, the only logical conclusion that can be arrived at is that the students who are appearing in supplementary examinations are also entitled to the moderations as provided in Ext.P1. Of course, it is open to the university to conduct a detailed study in the matter as

decided by the standing committee of the syndicate. However, petitioners need not asked to wait till the final outcome of the study report. As the petitioners are otherwise eligible to be declared as passed on a combined reading of Exts. P1 and P2, any further delay would deny the petitioners opportunity to get themselves involved and start their practice as advocates if they are interested.

In the result, the writ petition is allowed. Respondents are directed to extend the benefit of moderation provided as per Ext.P1 order to the petitioners in the light of the marks obtained by them in the Special Supplementary Exam 2014 for LL.B. 5 year course (201-2007 admission) within a period of two weeks from the date of receipt of a copy of this judgment and to issue consequential mark sheet and decree certificate to the petitioners if they are otherwise eligible.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.