

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19576 of 2011

Date of Decision.16.01.2015

Divya Dogra

.....Petitioner

Versus

Panjab University and others

.....Respondents

Present: Mr. Dheeraj Jain, Advocate
for the petitioner.

Mr. B.L. Gupta, Advocate
for respondent Nos.1 and 2.

Ms. Hema Kakkar, Advocate
for respondent No.3.

Mr. Inderpreet Singh, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-. -

K. KANNAN J. (ORAL)

1. The counsel for the 4th respondent states that he would adopt the reply filed on behalf of respondent Nos.1 and 3. The contention in defence by the University was that the petitioner had not cleared all the subjects in one attempt and for the Architectural Design IV in addition to the sessional marks, a viva voce and portfolio containing all the work done during the entire semester would be considered and since the petitioner had not qualified for the Architectural Design by securing the minimum marks for a pass in sessional marks, she was not sent to the viva voce at all. Consequently, she cannot be taken as a

person who had cleared it in the first attempt as per Regulation 77 (iii) that set down the qualification for a person to be awarded with gold medal, which reads thus:-

“Only such candidates shall be entitled to an award as take and pass every examination (including semesters) as a whole at the first attempt and at one and the same sitting.”

2. The counsel for the petitioner argues that the issue of what qualifies for the first attempt has been made by the Division Bench of this Court in CWP No.3269 of 1993 in Rubinder Brar Vs. Panjab University, Chandigarh and another dated 20.04.2011 where the Court was considering the case of a student who had not taken the examination of both practical and the theory on account of ill-health and when she took the examination for the first time at the next succeeding session or not, the Bench was prepared to hold that it must be taken as a first attempt and the gold medal and merit certificate could not be denied. The counsel would also refer to me a judgment of this Court in CWP No.5357 of 1996 in Naveen Kumar Vs. Panjab University and another where I was considering the case of the student who was seeking for Honours degree which was denied to him on the ground that he had not passed in the practical in the first attempt.

3. Both these decisions cannot apply. Before the Division Bench, it was a case of a student not having taken the University examination in theory on account of ill-health and when the person took the examination at the second time, the Court was prepared to take that the first attempt was only the attempt which the person had after he was missed out the earlier one and therefore, it cannot be taken to be a disqualification. In the case which this Court was dealing in Naveen

Kumar's case referred to above, it was a case of a specific rule requirement under Clause 10 that required for a qualification for Honours degree that a person must have sat for the subject in the university examination and cleared it in the first attempt. I dealt with the case of person who had failed in practical in internal assessment and he had not sat any more than the first attempt in the subject of the University examination. Having regard to the particular qualification mentioned in the Regulations, I had found that a failure in the practical cannot be equated with the first attempt in the University examination where the student had "sat for the subject". In our case, there was no more examination than viva voce after the sessional marks were awarded. There was no theory examination that a person was required to sit. The nature of appraisal was such that for Architectural Design, the marks in the sessions alone principally mattered and what was also additionally required was viva voce. If the person had not passed in the internal assessment where the person was assigned the sessional marks, there was no question of person being sent for viva voce. Such a person cannot be taken as clearing all the examinations in the first attempt. Here the difference is that there was no examination of the University apart from viva voce which was to be taken conjointly with the sessional marks and if a person did not qualify in the sessional marks there was no question of a person being allowed the benefit of a second appraisal in sessional marks to be qualified for a gold medal and for a treatment that the first attempt in viva voce must be taken to the first attempt in the University examination itself. Such an interpretation is deeply convoluted and makes a serious inroad to the bare reading of Clause 77 which we have

extracted above.

4. The denial of the gold medal to the petitioner was under the circumstances justified and I will find no reason to interfere with the same. The writ petition is dismissed.

(K. KANNAN)
JUDGE

January 16, 2015
Pankaj*