

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.2287 of 2015**

Saurabh Samanta S/o Shri Sunil Kumar Samanta, Aged About 35 Years
R/o C/o M.J. Umredkar, Vivekanand School Road, Near Idea Mobile
Tower, Danganiya, Raipur Chhattisgarh

---- **Petitioner****Versus**

National Institute Of Technology Through The Registrar, National Institute
Of Technology G.E. Road, Raipur, Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Jitendra Pali, Advocate
For Respondent	:	Shri Prateek Sharma, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15/03/2016**

Heard.

2. This petition under Article 226 of the Constitution of India is filed by the petitioner, a Research Scholar, aggrieved by the rejection of his application for conversion of research course from Full time to Part time.

3. Bare facts, necessary for decision of controversy involved in the petition, are that the petitioner was registered as research scholar in the respondent- National Institute of Technology on 15-12-2011. In the first four semesters, the petitioner completed the semester courses appeared in the examinations successfully and was then admitted to 5th Semester in January, 2014. The difficulty began when the petitioner was pursuing 5th Semester of his research

work when his father fell sick. The petitioner remained absent from the period 10-04-2014 to 06-07-2014. On 06-07-2014, he applied for extension of leave, but the same was rejected. The petitioner's registration as research scholar was also cancelled on 28-07-2014, obviously owing to his long absence from the research work.

The petitioner then approached this Court by filing writ petition WPC No.2091/2014, which was disposed off vide order dated 31-10-2014 with a direction that the petitioner may approach the Senate with all necessary documents and may place facts and file necessary application and documents. This Court further observed that the Senate may decide the case of the petitioner objectively taking into consideration the conditions prevailed along with recommendations and facts involved in the case. After the aforesaid order passed by this Court, the case of the petitioner was considered by the Senate of the respondent-institution and the Senate resolved in its 19th meeting held on 17-12-2014 to permit the petitioner to re-register himself for Spring Semester before 12-01-2015. The resolution states that the case of the petitioner has been considered and registration has been allowed on account of special facts and circumstances of the case. The Senate also continued grant of fellowship with the same conditions of grant after re-registration . It was also resolved that the petitioner would be entitled for the fellowship for a period of four years including the period of absence counting from the date of first registration on 15-12-2011.

4. The petitioner, after having been admitted to the next semester, after his re-registration, continued with the research work and upon completion of 6th Semester, the petitioner was awarded satisfactory progress report by the

Supervisor on 10-07-2015, which is evident from Annexure P-9.

At this stage, the petitioner applied for conversion of P.hd. Registration from Full time to Part time quoting personal and family reasons. The petitioner claimed to have become eligible on account of he having already completed 2 years from the date of initial registration as referred to under Ordinance 2.7(ii). The application of the petitioner was rejected vide impugned communication giving rise to this petition.

5. Learned counsel for petitioner urged that the petitioner was re-registered and his re-registration and permission to take up 6th Semester under the research course is clear recognition of petitioner's research work in earlier five semesters, which he pursued and passed. The contention of learned counsel for the petitioner is that the essential eligibility for requirement of consideration of application for conversion of full time course to part-time course is that the candidate must have completed 2 years from initial registration or after submission of synopsis. The petitioner had also completed two years of research programme in the year 2012-2013 and thus acquired minimum eligibility for consideration of his application. Earlier cancellation of registration followed by re-registration does not adversely affect his eligibility, which he acquired. According to applicable Rule, the candidate would become eligible as soon as he has completed two years from the date of registration or after submission of synopsis. Since, the petitioner fulfills one of the eligibility criteria i.e. completion of two years of research programme from the date of registration, rejection of his application by reckoning the period of 2 years from the date of re-registration, is arbitrary. Once, he was re-registered and admitted in the 6th Semester, the eligibility which he had earned earlier automatically gets revived and cannot be ignored while considering his eligibility.

6. On the other hand, learned counsel for the respondent submits that the Senate has rejected the petitioner's application on two accounts. Firstly, because the petitioner does not fall in any of the category of part-time candidates as provided in Clause 0.2 of Regulations. According to him, the category of student, who could be provided the facility of part-time course, are those, which are exhaustively stated in Clause 0.2.

The other reason for rejection is that the petitioner's registration was cancelled on account of absence. He had filed a petition before the Court. In view of the direction of the Court to consider his application, the Senate took a sympathetic view and granted re-registration to the petitioner. Therefore, for all practical and legal purposes, as and when eligibility for part-time course is to be considered, it is the date of re-registration and not the date of original registration which has to be taken into consideration. The petitioner was re-registered only on 12-01-2015. Therefore, unless he has completed 2 years with effect from 15-01-2015, he is not eligible to apply for conversion of full time to part time course. Learned counsel for the respondent emphasized that in order to become eligible for conversion, the candidate is required to undergo minimum institutional research programme. The effect of cancellation would completely efface the training which he earned as a institutional candidate in the past. He submits that unless the petitioner earns credit in respect of the earlier work, as per provisions contained in Clause 2.9 of the Ordinance, the petitioner cannot claim consideration of his application for conversion from full time to part time course.

7. The pivotal issue arising for consideration in the present case is whether, for the purpose of considering petitioner's eligibility under the Ordinance 2.7, institutional training programme undertaken by the petitioner prior to

re-registration should be considered and recognized.

8. The decision on this issue will require consideration of the scheme of regulation contained in para 2.7 which is extracted hereinbelow:-

0.2.7 (i) “A full time candidate may be allowed to convert his/her registration into part time registration on the recommendation of the DGC/DRC of the concerned department – only after completion of at least 1 year if the candidate is having M. Tech. qualification, and 2 years if the candidate is having non-M. Tech, qualification from initiation registration or after submission of synopsis.

(ii) If full time Ph. D. scholars get employed in the Sponsored Projects at the Institute, they can be permitted to convert their registration from full time to part time after one year or after completion of the course work, whichever is later. Such conversion will be permissible only if he or she works in the Projects at the Institute, not for employment outside the institute.”

9. A perusal of the scheme of grant of permission for conversion from full time to part time registration shows that before a candidate applies for such conversion, he has to fulfill certain minimum eligibility criteria. The provision, as it reads, requires that the candidate will be considered for conversion from full time to part time only after completion of at least one year, if the candidate is having M. Tech qualification, and 2 years, if the candidate is having non-M. Tech qualification, from initial registration or after submission of synopsis. Thus, in order to become eligible for being considered for conversion from Full time to Part time course, the minimum eligibility criteria in the regulations is required to be fulfilled else no application would be maintainable. Moreover, a comprehensive reading of the aforesaid provision further reveals that merely because the candidate has fulfilled minimum eligibility criteria in terms of having

completed minimum years of research programme or submitted synopsis, may not claim as of right that he should be allowed to convert his course from Full time to part time unless it is recommended by the Doctoral Guidance Committee of the concerned department. A conjoint reading of the aforesaid requirements make it very clear that before considering the candidate's request for conversion from Full time to Part time course, not only recommendation of high power committee is required but it has also to be ensured that the candidate has completed at least one or two year research programme, as the case may be, in the institution itself. Obviously, the criteria is only to ensure maintenance of high standards of research work. At the initial stage of research programme, research candidate is required to be taught how he has go ahead with his research programme and what research methodology is to be applied and followed for submission of complete research plan and its approval by the institutional guide. It is only thereafter that the candidate/research scholar gets equipped to go ahead with the research programme. This is the basic requirement of equipping training of a research scholar. That appears to be the object behind 2 years minimum institutional research programme before a candidate may be considered for conversion from Full time to Part time course. Moreover, as has been said hereinabove, even after he completed his minimum eligibility, there has to be recommendation of DRG/DRC, meaning thereby that work of the candidate is required to be assessed for arriving at subjective satisfaction whether he deserves to be granted permission for such conversion. Obviously, once a candidate is allowed to convert registration from Full time to Part time, there may not be necessity for him to continuously attend the institutional research programme. In such a case, it becomes necessary to ensure that before he is granted permission to continue as Part-time course, he

has undergone minimum period of institutional research programme/work.

10. If above is the purpose and object of fixing minimum eligibility period, then in all cases, whether before or after re-registration, if the candidate has fulfilled minimum requirement of 1 or 2 years institutional training programme, his candidature for conversion from full time to part time is required to be considered by treating him as eligible, though it is a matter of subjective satisfaction of the expert body where in a given case, permission should be granted or it should be differed for some more time, regarding being had to the nature, quality and standard of performance exhibited by the research scholar in past semesters including published works and other related attributes of merit as a research scholar.

I may hasten to say that the comprehensive language of Ordinance No.2.7 also reveals that in a given case, mere completion of two years may also not be enough and the competent authority which has to consider the application for conversion may, notwithstanding completion of minimum years necessity, differ the case till submission of synopsis and then take decision on the application for conversion into part time course. To my mind, all these considerations are engrafted in the provision with the ultimate object to maintain high standard and quality of research work before research candidate is granted doctoral degree in the subject of his research.

11. But then in the present case, acting upon the decision, which has been taken by the Senate and which has been placed on record, reveals that the operative reason for rejection of petitioner's application was no other consideration but the consideration that he has not completed 2 years reckoned from the date of re-registration. That decision, in the considered opinion of this

Court, cannot be upheld in law, given the stated object and purpose of ordinance 2.7 as discussed hereinabove. For the purpose of consideration of application for conversion to part time course, the petitioner ought to be held eligible as having completed 2 years institutional research programme from the date of his initial registration because he has been re-registered and then permitted to take up 6th Semester in continuation and it is not a case of requiring the petitioner to start his research course from the initial stages. Once the petitioner was permitted to take up 6th Semester in continuation which he earned by pursuing institutional research programme for the initial 2 years, benefit could not be denied to him. The inevitable conclusion, therefore, is that for the purpose of eligibility of petitioner, his original date of registration is required to be considered and not the date of re-registration.

12. Learned counsel for the respondent referred to other reason for rejection of petitioner's application i.e. the provision contained in Regulation 0.2.

Regulation 0.2 and Ordinance 2.7 operate in different field. While Ordinance 2.7 allows full time candidate to apply for conversion to part-time course to get the course completed on fulfillment of certain conditions, Regulation 0.2 classifies those candidates who have to be treated as part-time research candidate. It has got nothing to do with the conversion aspect. In other words, in the institution, there may be two category of part time students. One, those who fall in the category of Regulation 0.2 and secondly, those who have been allowed to convert under Ordinance 2.7. Therefore, this reason assigned by the Senate does not appear to be correct and in-consonance with the scheme of the ordinance and regulations.

13. In the result, the impugned decision of the Senate has to be set aside.

Having said so, the order of this Court should not be understood as if this Court has decided about the merit of the petitioner to get permission for conversion. This Court has only decided eligibility issue. The decision, on subjective satisfaction, as to whether in a given case, conversion from full time to part time course should be allowed, shall always remain in the realm of the subjective satisfaction of the body of experts and that jurisdiction cannot be usurped by the Writ Court. It shall be a matter of consideration by the Senate. The petitioner nevertheless have to be held eligible.

14. Accordingly, the petition is allowed in the manner and to the extent indicated above. As the matter relates to a research candidate, it is expected that the Senate shall decide the matter as expeditiously as possible.

SD/-
Manindra Mohan Shrivastava
Judge