

CWP No.10849 of 2016

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.10849 of 2016
Date of decision:27.05.2016**

Raj Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ajay Shekhawat, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 02.02.2016 by which request of the petitioner for grant of grace marks in one paper or a mercy chance has been declined.

Before filing this petition, the petitioner had filed CWP No.26537 of 2015 which was disposed of by this Court vide order dated 19.12.2015, directing respondent No.2 to put up the case before the competent authority, who will take a decision on the representation filed by the petitioner, as per rules and regulations. Thereafter, the competent authority had passed the following order:-

“1) **Regarding grace marks:** Mr. Raj Kumar is not eligible for award of grace marks in one paper as requested by him according to rule No.8.3 of VLD diploma course rules & regulations. He has scored 21, 23 and 24 marks in theory papers out of 70 in three courses in which he failed. As per rule No. 8.2 of VLD diploma

rules & regulations to pass a course a student is required to secure a minimum of 40% (28 out of 70 in theory) marks in theory and practical separately (including grace marks as per rule 8.3). As per rule no. 8.3 a maximum of 3 marks can be given as grace marks in a course and for the purpose of grace marks theory and practical of a course are treated as separate units for the particular course. Even after giving 3 grace marks he cannot pass any of these three theory papers. So he remains fail in all the three courses, which makes him ineligible for supplementary examinations.

2). Regarding mercy chance: As per rule No. 11 of VLD diploma rules and regulations “a student will be allowed a maximum of 2 years to clear/pass a class after which he will be removed from the College rolls.” Mr. Raj Kumar has already spent two years in 2nd year of VLD diploma course and failed. As per the above mentioned rule he cannot be allowed to sit again in the 2nd year of VLD diploma class to pass the diploma course. If given a mercy chance to again sit in the VLD 2nd year class, it will invite legal complications in other courses being run by the University. In his representation/directions of Hon'ble Court it is mentioned that a mercy chance has been given to other candidates of diploma in Veterinary Laboratory Technology (DVLТ) of this University by the Vice-Chancellor. This is not true. A mercy chance was given by the worthy Vice-Chancellor for appearing in another supplementary examination within the maximum limit of residential requirement of that course. On the contrary Mr. Raj Kumar has failed twice in the 2nd year and has crossed the maximum residential requirement of two years in a class. The mercy chance if given by allowing him to sit again in the 2nd year class will invite legal complications in other courses run by the University.

The competent authority i.e. Worthy Vice-Chancellor of LUVAS has decided that Rule is Rule and no deviation can be made.

In view of this the grace marks in one paper or a mercy chance for passing 2nd year of VLD diploma course cannot be granted.”

Counsel for the petitioner has argued that the petitioner has

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been discriminated by the respondents as the grace marks have been given in the case of other students.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that there is no merit in this petition because in order to plead discrimination, the petitioner is required to give complete facts of the case of other students with whom the petitioner has been discriminated, otherwise the finding recorded by the competent authority is perfectly justified.

Consequently, the present petition is hereby dismissed being denuded of any merit.

May 27, 2016
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(Rakesh Kumar Jain)
Judge