

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

222

CWP-14632-2016

Decided on : 08.09.2016

Jagjit Singh

... Petitioner

Versus

Panjab University and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present : Mr.S.S.Brar, Advocate
for the petitioner.

Mr.Indresh Goel, Advocate
for the respondents.

G.S.Sandhawalia, J. (Oral)

The petitioner seeks quashing of the provisional merit list of defence category for the Session 2016-17 for the 3 years LL.B course at Department of Law, Punjab University and admission thereafter.

Case of the petitioner is that being in merit at serial No.20 of the seats reserved for the defence personnel etc., and being ward of Ex-servicemen falling in category D-3, admissions were to be given as per the order of preference.

It is his grouse that the persons who were lower in merit, and deficiencies had been found in their documents, have been granted admission in spite of the fact that there is a condition in the prospectus that the incomplete documents would not be entertained.

In response to that, respondent-University has filed a reply in which it is stated that the petitioner is on the waiting list, figuring at Sr.No.4. Sixteen seats stand reserved for the said category, eight for the morning and eight for the evening course. After scrutinizing the application forms at the time of counselling, the candidates have been asked to furnish their original supporting documents of his/her respective sub-category. The merit list has also been attached. On perusal of the same, it would go on to show that in category D-3 for the morning course, last candidate admitted is having merit 114.74. Similarly, for the evening course, the last candidate admitted in D-3 category is having merit 106.80. The petitioner is at Sr.No.4 in the waiting list of defence category and documents of character and dependent certificate are still awaited.

Similarly, it has to be noticed that even in the merit list (Annexure P-31), in the remarks column, N.E. is being shown against him. The photocopy of the form has been produced by the University counsel to show that certain requirements had to be fulfilled by the petitioner also and the documents had to be produced by him i.e. one photograph, character and dependent certificates. Thus, the arguments being raised that on account of deficiencies, they (other candidates) should not be admitted, does not cut any ice with this Court. Admission has been made on the basis of merit. The issue is with regard to the cut off date of the applications.

The Full Bench of this Court in ***Rahul Prabhakar Vs.***

Punjab Technical University, Jalandhar, 1997(3) SCT 526 has held that after the cut-off date, the applications are not to be entertained. It is not the case of the petitioner that the said person had not applied at all by the cut off date and thereafter could not have been considered. The relevant part reads as under:-

35. I am, therefore, of the opinion that when the date or time has been stipulated in the advertisement and also in the Information Brochure, it must be strictly adhered to as otherwise it leads to uncertainty, unending process, anomaly and deprivation of equality clause and further it widens the competition amongst the candidates seeking admission into professional courses. It is also difficult to determine up to what period the time limit can be extended. If such power is to be exercised, it will lead to arbitrariness.

“36. The condition in the advertisement and the information brochure enabling the candidates to have their applications delivered either in person or by registered post is to ensure safe delivery within the stipulated time and the stipulation of time and date operates as a condition precedent for entertaining and considering the application of the candidates. It is for the applicant concerned to ensure that delivery of the application within the stipulated time to the concerned authority, whatever may be the mode of such delivery which he himself chooses to adopt or avail out of the alternatives available to him. If he is unable to send the application so as to reach the Co-ordinator, he forfeits his right to have his application considered. Mere personal hardship or general notions of justice or abstract considerations of sympathies cannot be taken into consideration to exonerate an applicant from his obligation to ensure delivery of this application to the Coordinator within the stipulated time. The fact that the applicant expected his application to reach the Co-ordinator in time in the ordinary course or the lapse on the part of the postal authorities resulting in the belated delivery of the envelope containing the application is no ground to compel the Coordinator to consider the application of the candidate even though it reached him after the stipulated time, the Co-ordinator is not obliged and has no duty in law to entertain such a belated application and consider the claims of such a candidate along with claims of others whose applications were delivered within time.”

Supreme Court in case **Dolly Chhanda** Vs. **Chairman, JEE, 2004(4)SCT, 546** has held that in case the documents are not available at the time of counselling, a technical view is not to be taken and thus there can be relaxation for submission of proof. The relevant para read as under:-

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees and mark-sheets. Similarly, in order to avail of the benefit of reservation or weighage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of the case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.”

Thereafter, in **Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and another, AIR 2016 SC 1098**, a similar question had also been decided by the Apex Court holding that a candidate is entitled to submit a certificate even after the cutoff date if he/she is eligible for selection.

As noticed above, the petitioner himself is also found wanting of documents and deficient on that account and therefore,

cannot take the plea on account of cut off date to challenge admission of the other applicants who are higher in merit list.

In such circumstances, there is no illegality in granting admissions to the persons who are higher in merit list than the petitioner.

Accordingly, the present petition is dismissed.

[G.S.Sandhawalia]
Judge

08.09.2016
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No