

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7316 of 2016
Reserved on: 25.10.2016
Decided on :09.11.2016

Rajbir Singh

... Petitioner

Versus

Panjab University & others

... Respondents

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

Present : Mr.Sunny K.Singla, Advocate, for the petitioner.

Mr.B.L.Gupta, Advocate, for respondents No.1 to 3.

Mr.Rohit Dhir, Advocate, for respondent No.4.

G.S. Sandhawalia, J.

The petitioner seeks quashing of the communication dated 21.03.2016 (Annexure P7) whereby his result of B.A. final year had been revised because of the revision in his B.A. Part-2 (compartment in the subject of Psychology). Resultantly, from the status of 'pass', he was granted 2 special chances for appearing in April and September, 2016 in the said subject. He had been asked to return the Detailed Mark Cards and the provisional Degree of the B.A. IIIrd year dated 12.01.2016 and to withdraw his legal notice. Resultantly a direction has been sought for declaring the result-cum-Detailed Mark Certificate of the Bachelor of Arts (2nd year) (General 10+2+3 system) and to declare the result of the petitioner as 'pass' on the official website of the respondent-University.

The pleaded case of the petitioner is that he had got admission in B.A. 1st year in the year 2012 with the respondent No.4- College and thereafter, passed his 1st year in the year 2013. He had taken

admission in B.A. 2nd year and had appeared in the examination in April, 2014 but got compartment in the subject of Psychology. In spite of re-appearing in the said paper in October, 2014, he had been unable to secure the pass marks. He had re-appeared in March, 2015 and had been declared 'pass' in B.A. 2nd year and along with that, in B.A. 3rd year also. Detailed Marks Certificate (DMC) had also been issued showing him 'pass' in all the 3 years, having obtained 1305 marks out of 2400 on 05.10.2015 (Annexure P3) and a provisional degree had also been issued in his favour dated 12.01.2016 (Annexure P4). A legal notice was sent on account of the Detailed Marksheet of IInd year not being supplied on 03.03.2016 (Annexure P6), which led to the passing of the impugned order. Reference has been made to the order dated 15.01.2016 passed by COE, whereby, allegedly, 6 grace marks had been awarded to him, inadvertently, whereas he was entitled to avail only 2 grace marks to clear the compartment examination and accordingly, the said benefit was withdrawn. The said order was not supplied to the petitioner. Resultantly, the present writ petition has been filed.

The University, in its written statement, took the plea that there was a mistake and the petitioner had wrongly been declared 'pass' by giving him 6 grace marks by treating him as 'full subject candidate' whereas he was only entitled for 2 grace marks, as per Regulation 28.1(b) of the Panjab University Calendar, Vol.II (page 47), 2007. The same was on account of the fact that he had re-appeared only in one subject and therefore, the grace marks were only to be given of the total marks in

which the candidate reappeared, if by such addition, the candidate got pass in that subject. It was clarified that on an earlier occasion, the petitioner had reappeared in the compartment paper but could not secure the requisite 49 marks which was required for passing and by inadvertence, 6 marks had been granted in the compartment examination by treating him as a 'full subject candidate' as against the admissibility of 2 marks. The result of the petitioner had wrongly been given as 871 marks by notification dated 01.10.2015 (Annexure R1-3/2). When the mistake in the result was detected by the computer due to the wrong compilation and tabulation, the same was rectified and the 6 grace marks were withdrawn, which was within the competence of the University. Resultantly, he had been given 2 consecutive chances to clear the compartment papers in April and September, 2016, as per the first proviso under Regulation 27.2 of the PU Calendar Vol.II (page 48), 2007.

Counsel for the petitioner has, accordingly, submitted that without issuing any notice to the petitioner, the result had been rectified, which was not permissible. He had been declared 'pass' and a provisional degree had been issued to him and the University was estopped, as such, from going back on its actions.

Counsel for the University, on the other hand, submitted that it was a mere rectification and correction of a mistake, which could not be said to be unjustified, in the facts and circumstances of the case and accordingly, the said action was justified and permissible.

From the above sequence of events, one thing would be clear

that when the petitioner appeared in the examinations in April, 2015 in both his compartment examination and final examinations, he was declared 'pass' as per the notification dated 01.10.2015(Annexure R1-3/2) and he was shown as having secured 871 marks in his B.A. (General) 2nd year examination held in April, 2015. In pursuance of the same, the DMC dated 05.10.2015 (Annexure P3) was issued and a provisional degree was issued on 12.01.2016 (Annexure P4), showing the petitioner having got a 2nd Division, having obtained 1305 marks. The University, however, vide notification dated 28.01.2016 (Annexure R1-3/3), revised his result of the 2nd year and showed him as 'fail'. Thereafter, vide the impugned order dated 21.03.2016, the reasons were supplied to him after he had served a legal notice dated 03.03.2016.

It is, thus, apparent that as per the notification dated 01.10.2015, in pursuance of the results which had been declared earlier on 08.06.2015/28.07.2015, the petitioner had been shown 'pass' in the 2nd year examination. The University itself admits this mistake, as such, that on account of the benefit of 6 grace marks given, the petitioner cleared the compartment examination in the subject of Psychology, though he was only entitled for 2 marks and would not have got the cut-off of 49 marks as he had only got 43 marks. The provisional degree had also been issued on 12.01.2016. It is only on account of the petitioner, thereafter, pressing for his detailed B.A. 2nd year DMC and on account of serving of the legal notice dated 03.03.2016 (Annexure P6), the impugned action has been taken.

The resultant affect is that the petitioner has lost out by not being granted a final degree for the last over one year, though if the University had acted timely upon its mistake and given the 2 additional chances to the petitioner, he would have not been faced with such a situation of losing a precious academic year. The option should have been given to him in July, 2015 itself, so that he would have got a chance to clear the examination in September, 2015. The 2 special chances in April and September, 2016, as per the requirement, has, thus, resulted in the loss of one precious academic year on account of the error of the University.

It was the bounden duty of the University to have scrutinized the details of the petitioner before granting of grace marks, as per his entitlement by showing him 'pass' on one hand and thereafter, withdrawing the benefit, cannot be held to be justified. The power of rectification, as such, may lie with the University but it cannot be invoked at any time, as such, subject to its convenience and in the absence of any fraud or misrepresentation on the part of the petitioner. Counsel for the petitioner is well justified to place reliance upon the judgment of the Apex Court in **Sanatan Gauda Vs. Berhampur University & others 1990 (3) SCC 23** to submit that the University would be estopped from taking such course of action at a belated state. Reliance has also been rightly placed in **Harmanpreet Kaur Vs. Gurunank Dev University & others 2015 (1) PLR 720** wherein it was held that it was impermissible to withdraw a Post-Graduate Degree without any action

even if it was permissible and the same would not vanish into thin air.

Reliance by Mr.B.L.Gupta, counsel for the University, on *Kavita Vs. The Punjab University 1964 (2) ILR (Punjab) 628*, is of no avail because in the said case, the candidate had been disqualified for 2 years on account of using unfair means, but her result had been declared at an earlier point of time. Resultantly, it was held that if there was a mistake, the same could be rectified and resultantly, it was held that in cases of fraud, the result could be quashed and no time limit had been fixed. In the present case, there is no fraud or misrepresentation on part of the petitioner.

Resultantly, keeping in view the above discussion, this Court is of the opinion that the action of the respondent-University is not justified. Accordingly, the order dated 21.03.2016 (Annexure P7) is quashed. The University will, accordingly, issue a final degree on the basis of the 6 grace marks granted in the compartment examination and also issue a Detailed Mark Certificate of the B.A. 2nd year to the petitioner.

With the above directions, the present writ petition stands allowed.

NOVEMBER 9th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No