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

CWP No.7705 of 2016

Date of Decision:04.07.2016

Roopam Singh

.....Petitioner

Vs.

Guru Ravidass Ayurved University, Punjab and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Ashok Sharma Nabhewala, Advocate for the petitioner.

Mr. Tarlok Singh Chauhan, Advocate for respondent No.1.

Mr. Ashok Tyagi, Advocate for respondent No.2.

RAKESH KUMAR JAIN, J.(Oral)

This petition is filed for seeking a direction to the respondents to award 1% marks out of the total maximum marks of 1850 in the subject of Panchkarma theory in the Panjab University Calendar/ Rules for BAMS Regulations.

The petitioner got admission in the Bachelor of Ayurvedic Medicine and Surgery (B.A.M.S. - 4½ year professional course with one year internship) in the session 2011-12.

The 4½ years professional course of B.A.M.S is split into 3 professions (Props) of 1½ years duration each. The petitioner allegedly completed two professional (Props) and, thereafter, appeared in the 3rd professional examination in November/ December, 2015. The result was declared on 29.2.2016 in which it was notified that the petitioner has obtained re-appear in the studies of Kaumar Bhritya and Panchkarma out of

the 7 subjects in which he had appeared. The petitioner applied for re-evaluation within the stipulated period along with requisite fee. The respondent- University revised the result on 5.4.2016. The petitioner got 50 marks in theory in place of 35 marks earlier awarded in Kaumar Bhritya and 36 marks in theory of Panchkarma instead of 30 marks earlier awarded. According to the petitioner, the students admitted in Dabur Dhanwantri Ayurvedic College and Hospital, Sector-46, Chandigarh are entitled to the benefit of Panjab University Regulations of Bachelor of Ayurvedic Medicine and Surgery (B.A.M.S.). The Regulation No.12 provides 1% of the total aggregate marks as grace marks and by virtue of that, out of 1850 total aggregate marks of the final examination, 1% would come to 18.5 marks and if the same is given to the petitioner, then the petitioner would clear the paper of Panchkarma as well. It is submitted that the said Rule is not being applied to the College where the petitioner is studying, namely, Dayanand Ayurvedic College, Jalandhar and is, thus, being discriminated. The petitioner made a representation for awarding 1% grace marks as per the Panjab University Regulation No.12 on 14.4.2016. It is also submitted that the issue of 1% grace marks of the aggregate marks in the medical education in different universities in the country was pending consideration since 2008, some of the universities were providing 1% grace marks and some of the Universities were not. Therefore, vide decision dated 11/12.4.2016, in Agenda Item No.31, the Central Council of India, Medicine (CCIM) has approved the grant of 1% grace marks to the students in all the Universities in theory or practical in order to bring uniformity. However, it is admitted that respondent No.3 – College in which the petitioner is

studying is affiliated to Baba Farid University of Health Sciences. There is no regulation providing grace marks but the petitioner has alleged that since the provision of grace marks is there in the Panjab University, it should have been there in the Guru Ravidass Ayurvedic University as well.

Counsel for the University has submitted that the University was established under the Guru Ravidass Ayurved University Act, 2009 and is affiliated with Baba Farid University of Health Sciences, Faridkot and is following the Rules and Regulations of the said University particularly in regard to the grace marks. The Board of Management of BFUHS in its 26th meeting held on 17.3.2009 framed the admission rules for BAMS course including the Regulation No.20 regarding the grace marks as per which maximum of 5 grace marks in each profession of the BAMS course can be awarded if the candidate is able to clear all the subjects of the concerned profession with the grace marks at the time of award of grace marks only once in each profession. Regulation No.20 regarding the grace marks read as under:-

“20. Grace Marks

There shall be a maximum of five (5) grace marks in each profession of BAMS course which shall be awarded only if the candidate is able to clear all the subjects of the concerned profession with the grace marks at the time of award of grace marks only once in each profession. The grace marks when the candidate is eligible that is he/she is able to pass the examination of the concerned profession shall be given to the best advantage of the student. No grace marks shall be

awarded just to pass one or more subjects if the candidate still remains in reappear.”

The said Regulation was further modified to the following effect:-

“202. RESOLVED: To ratify the orders of the Vice-Chancellor dated 13.01.2009, vide which he, subject to and in anticipation of the approval of the Board of Management allowed that the grace marks upto 5 (five) be given to the best advantage of the students irrespective of Theory or Practical examination in all Faculties wherever grace marks are allowed (Pages 1277 to 1279 of the Appendices).

Some Hon'ble Members of the Board sought clarification with respect to grant of grace marks in practicals.

The Vice-Chancellor stated that a large number of students failed in practicals. He consulted some Universities and went through the Medical Council of India regulations.

When he found that even Medical Council of India had not specifically stated whether grace of 5 marks had to be given in theory and in practicals, he decided to award grace marks up to five (5) to the best advantage of student in theory or practical examination.”

It is further submitted that counsel for the respondent has further given the detail of the academic record of the petitioner which is also reproduced as under:-

“She appeared in 1st Professional Examination in Session

November/December 2012 of BAMS Course in full subjects under Roll No.11220436. In one of the subjects i.e. Sanskrit she was awarded the grace marks in order to declare her pass. The detail of marks in the subject of Sanskrit before and after grace marks is as below:-

Sr. No.	Prof	Subject	Marks obtained in Theory	Internal Assessment	Total Before Grace Marks	Grace Marks awarded	Total after Grace Marks
1	BAMS Ist Prof	Sanskrit	A-41 out of 90 B- 34 out of 90	20 out of 20	41+34+20=95 out of 200(Pass Marks 100) She lacked 5 marks to pass as the pass marks 100 out of 200	In order to declare her pass in the subject of Sanskrit she was awarded 5 grace marks	95+5=100 (Declared passed in Sanskrit)

Thereafter, she appeared in BAMS 2nd Prof in Session May/June 2014 in full subjects under Roll No.12410740. In one of the subjects i.e. Agad Tantra she was awarded the grace marks in order to declare her pass. The detail of marks in the subject of Agad Tantra before and after grace marks is as below:-

Sr. No.	Prof	Subject	Marks obtained in Theory	Internal Assess-ment	Total Before Grace Marks	Grace Marks awarded	Total after Grace Marks
1	BAMS 2nd Prof	Agad Tantra	37 out of 90	10 out of 10	37+10=47 out of 100(Pass Marks 100) She lacked 3 marks to pass as the pass marks 50 out of 100	In order to declare her pass in the subject of Agad Tantra she was awarded 3 grace marks	47+3=50 (Declared Agad Tantra)

Therefore, the petitioner is stopped by her own Act and Conduct from claiming 1% grace marks of the aggregate marks

of all the 3 professional examinations under the regulations of other Universities/Institutions particularly when she has already accepted the regulation regarding grace marks as being followed by the answering University and also enjoyed the benefit under the said regulation in previous examinations.

7. That the petitioner admittedly appeared in 3rd professional examination in Nov/Dec, 2015. The status with regard to her result is as under:-

Sr. No.	Subject	Marks before re-evaluation			Result	Marks after re-evaluation			Result
		Theory	Internal	Total		Theory	Internal	Total	
		90	10	100		90	10	100	
1.	Kaumarbharitya	35	7	42	Re- Kaumarbhari tya and Panchkk- arma	42	7	49	Cleared in subject of kaumarbharitya after giving 1 grace mark. Hence result has been declared as Re-appear in Panchkarma
2.	Panchkarma	30	8	38		36	8	44	

The above chart goes to show that the petitioner obtained 35 out of 90 marks in Theory and 7 out of 10 marks as internal assessment total 42 marks out of 100 in the subject of Kaumarbharitya whereas the pass marks are 50 and as such the petitioner being failed was placed in reappear in the subject of Kaumarbharitya. Similarly, she obtained 30 out of 90 marks in Theory and 8 out of 10 marks as internal assessment total 38 marks out of 100 in subject of Panchkarma whereas the pass marks are 50 and as such the petitioner being failed was placed in reappear in the subject of Panchkarma also. She applied for re-valuation of the above said papers. After re-valuation she

was awarded 42 out of 90 marks in Theory and 7 out of 10 marks as internal assessment total 49 marks out of 100 in subject of Kaumarbharitya whereas the pass marks are 50. She was lacking only 1 mark to pass in the subject of Kaumarbharitya. Under the Regulation regarding award of grace marks, the petitioner was given 1 mark in the subject of Kaumarbharitya in order to pass her in the said subject. After giving 1 mark in the above said subject, there remained 4 marks balance out of admissible 5 marks under the Regulation. As in the subject of Panchkarma, the petitioner obtained 44 marks even after re-evaluation, she is failing in the subject of Panchkarma as the pass marks are 50. Still she was lacking 6 marks to pass. Therefore, even if she is given 4 marks she does not become eligible to pass in the subject of Panchkarma. Therefore, her result has been declared correctly as Re-appear in the subject of Panchkarma under the Regulations.”

I have heard learned counsel for the parties and after perusal of the record, it is found that in every professional examination, the petitioner has been given 5 grace marks like in the Ist professional examination, he has been given 5 grace marks in the subject of Sanskrit, in the 2nd Professional examination, 5 grace marks were given in the subject of Agad Tantra and in the 3rd Professional, she could clear Kaumar Bhritya with 1 grace mark. A complete detail has already been reproduced hereinabove.

In view of the aforesaid facts and circumstances, the petitioner cannot claim the parity with the Panjab University for 1% grace mark as it is

not applicable to the college of the petitioner which is affiliated to another University following the Regulations of the Baba Farid University of Health Sciences, Faridkot which provides for grant of 5 grace marks in all. Insofar as the decision taken by CCIM is concerned, it is not implemented and, therefore, it is of no use to the petitioner at present. Consequently, I do not find any merit in the present petition and the same is hereby dismissed.

July 04, 2016
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(RAKESH KUMAR JAIN)
JUDGE