

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.33582 of 2017

J.Jayan

...Petitioner

Vs.

1.The Controller of Examinations

The Tamil Nadu Dr.Ambedkar Law University
No.5, Dr.D.G.S. Dhinakaran Salai
R.A.Puram, "Poompozhi"
Chennai - 28.

2.The Government Law College

Khaja Malai
Race Course Road
Trichy - 620 023.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned communication letter L.No.2815/C.O.E./C2/2017 dated 28.11.2017 and quash the same and directing the 1st respondent to rounding of my mark from 59.96% to 60% and to declare the petitioner have passed in 1st Class within a stipulated time.

For Petitioner : Mr.J.Jayan [Party-in-Person]
For Respondents : Mr.V.Vasanth Kumar [For R1]
Mr.T.M.Pappiah [For R2]
Special Government Pleader

O R D E R

The petitioner joined 5 year B.A.B.L. Course in 2011 in the 1st respondent University and completed the course in the year 2016 by securing 59.96%, which is short of .04% to get 60% as 1st class.

2.In view of the shortage, the petitioner has given a representation dated 13.11.2017 by stating that 59.96% should be rounded off and he should be declared as having passed the B.A.,B.L., in 1st class.

3.Subsequently, an order has been passed on 28.11.2017 by the 1st respondent informing the petitioner that his request to change the percentage of mark as 60% by rounding off the actual mark of 59.96% as 60% obtained by him in B.A.,B.L., could not be considered. Hence, the said order is challenged before this Court by the petitioner.

4.Heard Mr.J.Jayan, who appeared as Party in Person, Mr.Vasanthakumar, learned Standing Counsel appearing on behalf of the 1st respondent University and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the 2nd respondent College.

5.Mr.J.Jayan, who relied upon the order passed by this Court in W.P.No.18825 of 2017 dated 03.10.2017, wherein this Court relied upon the judgment of the Hon'ble Supreme Court in the case of State of U.P. and another Vs. Pawan Kumar Tiwari and Others, reported in (2005) 2 SCC 10, rounded off marks obtained by the petitioner therein in theory paper from 49.66% to 50% and declared the student as having passed the Post Graduate Diploma Examination. Therefore, he seeks similar order.

6.It is submitted by Mr.J.Jayan that the order passed by this Court in W.P.No.18825 of 2017 dated 03.10.2017 has been taken before the First Bench and the Bench confirmed the order passed by this Court.

7.Mr.Vasanthakumar, learned counsel appearing for the 1st respondent would contend that it is not possible to round off the marks as the petitioner secured 59.96% only and there are many similarly placed persons, who would have secured even above.

8.The Hon'ble Supreme Court held in the case of State of U.P. and another Vs. Pawan Kumar Tiwari and Others, reported in (2005) 2 SCC 10 states that rounding off is based on logic and common sense. If one half or more, its value shall be increased to one and if part is less than half, then its value should be ignored. Paragraph 7 of the Judgment is extracted as follows:-

"7.We do not find fault with any of the two reasonings adopted by the High Court. The rule of rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignore. 46.50 should have been rounded off to 47 and not to 46 as has been done. If 47 candidates would have been considered for selection in general category, the respondent was sure to find a place in the list of selected meritorious candidates and hence

entitled to appointment."

9. Though the Judgment arises out of the issue regarding reservation, still the rounding off concept could be taken from the Judgment. Similarly, it is the dictum of the Hon'ble Supreme Court in the case of State Bank of Punjab and another Vs. Asha Mehta, reported in (1997) 11 SCC 410 wherein it has been stated that rounding off 32.5% to 33% is purely an arithmetical calculation, a procedure which the Public Service Commission, in fairness has been adopting.

10. This Court is aware that securing 1st class in Law is very difficult and that too a Government College student has secured 59.96%, and short of very negligible point of 0.04% to achieve 1st class. Merely, because he is short of .04% marks to reach 60%, the petitioner should not be denied 1st class.

11. Therefore, this Court directs the 1st respondent to round off the petitioner's mark from 59.96% to 60% and declare the petitioner as having obtained 1st class in B.A.B.L degree course and issue certificate within four (4) weeks from the date of receipt of a copy of this order. With the above direction, the writ petition stands allowed. No costs.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.J.Jayan [Party-in-Person], sr 92299.

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SP(11/01/2018)