

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.7289, 8957 AND 9049 OF 2017

COMMON ORDER:

These writ petitions are being disposed of by this common order as they relate to the award of grace marks of five to the petitioners on par with the candidates admitted along with the petitioners for the academic year 2013-14 by declaring the letter dated 03.02.2017 as not applicable to the petitioners.

The petitioners are in-service candidates who appeared for the Post Graduate Medical Examinations in different branches.

The petitioners in W.P.No.7289 of 2017 appeared for the examinations in May, 2016, but failed. They again appeared in the month of November, 2016 and they could not get the required marks. It is their case that the candidates, who appeared for the examinations in the month of May, 2016 were awarded five grace marks and the same was not extended to them.

The case of the petitioner in W.P.No.8957 of 2017 is that he appeared for the examinations in November, 2013; May, 2014 and November, 2014, but failed. He did not appear in April, 2015, but appeared in November, 2015, where he got four marks less for passing the examinations. However, he states that the candidates, who failed and short of five marks, were awarded grace marks. It appears that he filed W.P.No.33730 of 2016 along with another for extending the benefit of five grace marks and the said writ petition was disposed of on 31.10.2016 by directing the University to take a decision on the representation submitted by the petitioner. Pursuant to the same, the representation of the petitioner was rejected by order dated 20.12.2016 stating that the Executive Council of the second respondent University in its 220th Meeting held on 28.04.2016 passed a resolution to the effect that grace marks will be

awarded for those who appeared in April, 2015, but failed and re-appeared in November, 2015, but failed. The petitioner states that the said resolution is bad in law as it is discriminatory.

The case of the petitioner in W.P.No.9049 of 2017 is that she appeared for the examinations conducted in May, 2013; May, 2014 and November, 2014, but could not succeed. She did not appear for April, 2015 examinations, but appeared in November, 2015. She secured marks, which are less than five, for passing the subject and she filed W.P.No.33730 of 2016 along with the petitioner in W.P.No.8957 of 2017 and the said writ petition was disposed of on 31.01.2016 as aforesaid.

Now a counter affidavit is filed on behalf of the second respondent stating that the General Body of the Medical Council of India in its meeting held 22.11.2016 considered the matter with regard to award of grace marks in Post Graduate Medical Examinations and decided as under:

“The Postgraduate Committee considered the matter and noted that as per Regulations on Postgraduate Medical Education, 2000, there is no provision for grace marks. Hence, a circular be issued to all universities that no grace marks should be given to postgraduate examination and ordinance of their universities be amended accordingly.”

Since the petitioners did not appear for the previous examinations other than the examinations, where they appeared and seeking grace marks, they were not awarded grace marks. The Executive Council passed a resolution on 28.04.2016 to the following effect:

“EC has decided unanimously to award five grace marks in theory only for candidates who failed in PG Degree, Diploma examinations (Modern Medicine) held in April, 2015, and reappeared in November, 2015 (for this examination only). This should not be a precedent for future examinations.”

The benefit of such resolution is extended to the candidates who failed in April, 2015 examinations and re-appeared in November, 2015 examinations, and it would not be a precedent for future examinations.

Learned counsel for the petitioners submits that there cannot be any discrimination in awarding the grace marks and the grace marks should be awarded to the candidates irrespective of their appearance in the examinations either in April or November. It is the Executive Council of the University to take a decision depending on the circumstances and the classification of the students, who appeared for the November, 2015 examinations after having failed in April, 2015 examinations, and others cannot be said to be discriminatory. As admittedly, the petitioners did not appear for the April, 2015 examinations.

The petitioners in W.P.No.7289 of 2017 cannot claim any benefit as the resolution of the Executive Council is applicable only to the candidates who appeared in November, 2015 examinations. It appears that the Executive Council of the University passed another resolution on 08.09.2016 awarding grace marks to the candidates who appeared for May/June, 2016 examinations and since the petitioners appeared for November, 2016 examinations, in the absence of any resolution covering such candidates, no relief can be granted.

In view of the same, the writ petitions are dismissed in the absence of any evidence as to the existence of any regulation for awarding the grace marks and any resolution passed by the Executive Council from time to time covering the writ petitioners.

Consequently, miscellaneous petitions pending in the writ petitions, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

07.09.2017
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