

CWP No.6738 of 2016 (O&M)

[1]

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

**CWP No.6738 of 2016 (O&M)
Date of decision:07.04.2017**

Amit Kumar Giri

...Petitioner

Versus

The Punjabi University, Patiala and another

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. IPS Mangat, Advocate,
for the petitioner.

Mr. Vishal Khatri, Advocate,
for respondent No.1.

Mr. Karan S. Bhardwaj, Advocate,
for respondent No.2.

Rakesh Kumar Jain, J.

The petitioner took admission in June 2015 in B.A.LL.B. (Hons.) 5 Years course in the Army Institute of Law, affiliated with the Punjabi University, Patiala (hereinafter referred to as the “institute”). According to the petitioner, after admission, he was to provide a certificate of his fitness but since he was suffering from recurrent tubercular plural effusion (left), therefore, he requested for some time to furnish the fitness certificate as he was undergoing some treatment. He remained under treatment in the Command Hospital, Lucknow from 17th July, 2015 to 8th October, 2015 and was discharged on 8th October, 2015 after being declared fit in terms of the fitness certificate issued by the Army Medical Hospital, Lucknow and despite submitting fitness certificate, the institute did not allow the petitioner to attend

classes and appear in the first semester examinations. It is further alleged that his father pleaded his case before the college authorities but he was given the only option to take his fee back. It is alleged that the petitioner returned to the institute after 1st semester was over to join the 2nd semester but he was not allowed to do so and he was handed over two cheques of the amount of ₹72,009/- towards total refund of his fee, whereas the total amount of ₹1,53,255/- was deposited by the petitioner. It is alleged that the college has illegally retained ₹81,246/-.

With this background, the petitioner has made a prayer in this petition for issuance of a direction to the institute to allow the petitioner to appear in the 2nd semester examination and in the alternative, to refund the complete fee paid by him for both the semesters without any deduction.

In reply, the Institute has averred that the main agitation of the petitioner was that despite being medically fit, he was not allowed to appear in the 1st semester examinations but the petitioner never attended a single class in the entire 1st semester out of total 297 lectures delivered from July, 2015 to November, 2015 and it was on account of shortage of lectures the petitioner was not allowed to appear in the 1st semester examinations because it is provided in Clause 5 of the Prospectus of 2015-2016 that 75% of attendance is mandatory as per the University Rules to appear in the semester examination. It is further averred that even if the petitioner was under treatment from 17.07.2015 to 08.10.2015, the statement of lectures show that the session started from July and continued till November, 2015 and there was no reason for the petitioner for not attending the lectures from 8.10.2015 to November, 2015. It is further submitted that the entire effort of the petitioner was to seek

the refund of his fee and in this regard, reference has been made to the application written by the father of the petitioner in his own hand on 11.02.2016, asking for the refund of fee after forfeiting his admission as the petitioner was not in a position to continue with his studies on account of his health related issues. It is further averred that in terms of the application, the petitioner was asked to obtain “No Dues Certificate” from various branches of the institute and, thereafter, the petitioner was refunded an amount of ₹72,009/- (college fee of ₹22,325/- + hostel fee of ₹48,748/-) on 09.03.2016 and the petitioner collected cheque nos.648381 and 647150 on 09.03.2016 itself. It is further averred that the refund has been made in strict compliance of Clause 19(b) of the Prospectus of 2015-2016, which provides as under:-

“(b) Refund of Fees after commencement of the course, if a seat remains vacant will be as under:-

- i. Admission fees: no refund
- ii. Security fee to be refunded
- iii. Student association and journal fee : no refund
- iv. Tuition fees, allied fee IT and library : One year fee to be retained (adjusted fee, against security deposit)
- v. Hostel charges : One year hostel charges to be retained
- vi. Electricity, mess and washerman charges: As per actual. A single day of month will be treated as a month.
- vii. Convocation charges: Not to be refunded if withdrawal is after 3rd year.”

It is further submitted that the clause pertaining to refund of fee is common for B.A.LL.B. and LL.M., which is divided in 3 parts and petitioner's case is covered in Clause (b), which deals with an occasion where the refund of

fee is sought after commencement of the course and if the seat remains vacant. It is further averred that the petitioner made a request for refund of fee after commencement of the course, after completion of the entire 1st semester whereas the seat remained vacant/unfilled.

Thus, it is submitted that the petitioner cannot be refunded the admission fee, student association, journal fee and security fee alone coupled with hostel charges were to be refunded and electricity, mess and washerman charges are to be charged as per actual usage.

During the course of hearing, counsel for the petitioner has submitted that the petitioner is now only interested in refund of his entire fee, whereas counsel for the respondents has referred to various decisions of this Court rendered in the cases of **R.S.Garg vs. Union of India and others**, 2015(3) PLR 630, **Sugandha Magu vs. State of Haryana**, 2012(3) SLR 64 and **Deepak Kumar Kaushal vs. State of Punjab and another**, 2012(3) SLR 348 on the issue that once a candidate joined the course and the seat remained vacant/unfilled, then the refund of fee cannot be claimed.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that there is no error on the part of the respondents insofar as the refund of fee of the petitioner is concerned because the petitioner got admission in the institute, consumed the seat which was given to him but did not attend classes and despite the fact that he stayed in the hostel he did not vacate the seat in time, therefore, the seat, after having been vacated by the petitioner now, remained unfilled and his case is squarely covered by the decisions of this Court, referred to above.

Consequently, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

April 07, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No