

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1197 of 2015 (O&M)

Date of Decision: 28.07.2017

Guru Jambheshwar University Hisar & Ors.

... Appellants

VS.

Arvind Kadian & Anr.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

Present: Mr. Girish Agnihotri, Senior Advocate with
Mr. Rohit Mittal, Advocate for the appellants

Mr. RK Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate for respondent No.1

Mr. Lokesh Sinhal, Advocate for applicant

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 06.02.2015 whereby learned Single Judge quashed the decision of the appellant-University and has directed it to issue Degree Certificate to respondent No.1 in terms of the Detailed Marks Card already issued.

(2) It is not necessary to state the facts here as all the relevant facts are mentioned in our order dated 21.10.2016 which was passed after hearing both the parties and which reads as follows:-

“A piquant situation has arisen in this case. As per the Result-cum-Details Marks Card issued to the respondent on 26.3.1997 by Guru Jambheshwar University, he qualified the subject of Electronics-II with 61 marks out of 100 in 4th semester examination of Bachelor of Engineering (Electrical) held in May 1996. However, when the respondent got employment and the employer Department sent his marks sheet for verification, the

University found from the original result sheet, which was prepared manually, that the respondent had failed in Electronics-II paper as he got only 02 marks.

The answer sheet is not available as the same has been destroyed in due course of time.

On one hand, we have the original result sheet prepared by the University and on the other, the respondent relies upon the original result-cum-marks card. Both the documents are prepared in performance of official duties and none can be discarded.

In such a situation and on enquiry from learned counsel for the parties, we find that had the respondent been informed in the year 1996-97 that he had failed in the subject of Electronics-II, he would have got four chances to re-appear and clear that paper. Why should he be deprived of those opportunities for the entire fault of the University? Similarly the sanctity and purity of an examination must be respected to the hilt. If a candidate is assumed to have failed in one of the papers, it is not necessary for this Court to draw an inference and presume that he shall be deemed to have passed.

The appropriate recourse in such a situation would be that let the respondent be granted sufficient opportunities by the appellant University to re-appear in the subject of Electronics-II on the basis of same curriculum/syllabus to the extent it is possible, as it was in

force in the year 1996-97. For that purpose, the University may hold special examination first atleast after 4 months and if necessary, second three months thereafter. Once the respondent would qualify the above-stated paper, declaration of the result will relate back to the date when he originally appeared in such examination. Meanwhile, respondent No.1's employment on the basis of marks sheet dated 26.3.1997 cannot be harmed or allowed to be affected. We thus, direct the Managing Director of Haryana Vidyut Prasaran Nigam Limited (HVPN Ltd.) to provisionally reinstate the respondent forthwith subject to further directions. We are inclined to pass this order also for the reason that the respondent has succeeded before the learned Single Judge.

The date and venue of examination shall be conveyed to the respondent by the University directly as well as through his learned counsel.”

(3) Soon thereafter the erstwhile Haryana State Electricity Board (now HVPNL) filed CM-1186-87-LPA-2017 for impleading it as an intervenor as also for modification/recalling the last part of the above-reproduced order to the extent a direction was issued to allow respondent No.1 to continue in service. In the light of the averments made in the application, this Court, on 24.04.2017, directed that the direction contained in the order dated 21.10.2016 for reinstatement of respondent No.1 shall remain in abeyance.

(4) It is now an admitted fact that pursuant to the order dated 21.10.2016, a special examination was conducted in which the first respondent has qualified in the subject of Electronics-II.

(5) In this view of the matter, learned counsel for the appellant-University states that the requisite Degree Certificate along with detailed Marks Card shall be issued in favour of respondent No.1 and it will relate back to the date when he appeared in the examination.

(6) The appeal is accordingly disposed of and the order of learned Single Judge is modified to the extent that let the needful be done within one month from the date of receipt of certified copy of this order. However, the certificate to be issued by the appellant-University shall not be binding *ipso facto* on the HVPNL as the said Corporation is not a party to these proceedings and the service dispute between respondent No.1 and the said Corporation is not the subject matter of adjudication here. Suffice it to observe that the first respondent shall be at liberty to have recourse to the remedy as may be available in law to seek redressal of his grievances against HVPNL.

(7) Ordered accordingly.

(Surya Kant)
Judge

28.07.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No