

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: May 18, 2017

Judgment delivered on: May 24, 2017

+ W.P.(C) 1177/2014, CM Nos. 2464/2014

NARESH KUMAR CHANDERA

..... Petitioner

Through: Mr. Rajeev Saxena, Adv. with Ms.
Namrata Chauhan, Adv.

versus

DELHI UNIVERSITY & ANR

..... Respondent

Through: Mr. Mohinder J.S. Rupal, Adv. with Ms.
Disha Malhotra, Adv. for-1

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. In the present petition, the petitioner has impugned notification dated October 10, 2012 whereby it has been decided by the respondent No.1 that the application for grant of special chance beyond the stipulated span period, shall not be considered by it.

2. The case of the petitioner is, that he was admitted to the B.Sc course in July 2002 at Kirorimal College respondent No.2, which is a three years course but having a span period of six years to complete the same. In 2005, the petitioner had a paralytic attack thereby leading to several complications due to which he had complete loss of vision, which disrupted his studies as he remained bed ridden for a very long time. After prolonged treatment, there was some improvement in the condition of the petitioner.

However, in the meanwhile, he could not appear in the examinations to qualify his B.Sc course and the span period, as prescribed by the University expired. In 2009, the petitioner qualified the examinations held by S.S.B./CPF for the post of Assistant Commandant but could not be considered as he had not completed his B.Sc course. He, in his petition refers to various examinations, he had qualified for different courses/employment. It is his case that the Notification dated October 10, 2012 is illegal and has been issued in violation of Delhi University Act and the Statutes.

3. On January 24, 2013, he made a representation for being given a special chance for completing his B.Sc course. In June, 2013, the University included the name of the petitioner in the list of the students, who are entitled to special chance in the examinations to be held in May, 2013. On May 6, 2013 the petitioner was issued a letter by the Controller of Examinations thereby asking him to contact him. The petitioner contacted the Authorities and was assured that due to some oversight and error, the papers in which the petitioner had to appear, have not been included in the date sheet published by the University. The petitioner was assured by the Authorities that the said papers would be included in the date sheet to be published in July, 2013. In the month of August, 2013 the respondent No.1 published its date sheet of the scheduled examinations but the papers, in which the petitioner was supposed to appear were again not included in the said date sheet. The petitioner made several rounds to the office of the University but no satisfactory reply was given. On September 21, 2013, he made a detailed representation to the University highlighting all the omissions done by the University in his case, as a result of the same, he has been deprived of appearing in the

examination. According to him, the University neither considered his matter nor replied to the said representation.

4. It is the case of the respondent No.1 that University had issued Notification dated March 14, 2013 granting special chance to the students beyond the prescribed span period purely as a one time measure. The petitioner applied under the said Notification so as to avail one last chance to clear his backlog papers. The University accepted the request of the petitioner and allowed him to appear in the backlog papers. The petitioner was informed about the same. However, he did not submit his examination form nor did he deposit the examination fee for the backlog papers. In fact, it has been mentioned in the short affidavit filed by the respondent No.1 that the petitioner was informed on telephone and personally through window by the dealing assistant to deposit his fee and the examination form. Later, the petitioner through letter dated May 6, 2013 was advised to contact the Examination Branch, North Campus immediately for further action. The said letter was handed over personally to the petitioner along with the examination form but the petitioner did not fulfil the necessary requirements. The date sheet released by the University scheduled to be held from May 6, 2013 was meant for regular students of B.Sc (General) Part III and I/II and III simultaneous Old Course Annual Mode. Another date sheet was released by the University for the examination, which was scheduled to be held from August 16, 2013, which was meant for students of Old Courses, whose papers were not incorporated in the earlier date sheet of May, 2013 due to old Scheme of examination. Since the petitioner did not deposit the examination form with requisite fee, therefore his backlog papers were not incorporated in the date

sheet. It is stated in the short affidavit that these aspects have been withheld by the petitioner.

5. Mr. Rajeev Saxena, learned counsel for the petitioner would urge that on May 6, 2013, the deponent during his visit to the University for following up the matter with regard to his being granted an opportunity to appear for the examinations has been handed over a letter dated April 25, 2013, which had never been dispatched to him on the said date of April 25, 2013, wherein the petitioner was asked to contact the Examination Branch to appear, as a last special chance. Unfortunately on May 9, 2013, the deponent visited the Examination Branch to submit his examination form, which however had been declined to be accepted on the excuse that the current date sheet did not have all the papers for which the petitioner had to appear. Similarly, he would state in August, 2013 once again, the petitioner visited the Examination Branch to submit his examination form. However, even this time, that was declined to be accepted on the ground that the date sheet for the said examination process under the annual examination mode 2013 under special chance II does not contain all the papers in which the petitioner had to appear and as such even this time the examination forms were not accepted. He states that this Court may give one final chance to the petitioner and the paper be set on the basis of the new curriculum, which is in force.

6. Mr. Mohinder J.S.Rupal, on the other hand, opposes the submission made by Mr. Saxena. He would state that the petitioner has not come to the Court with clean hands. He, apart from reiterating the submissions made in the counter-affidavit, would also refer to the affidavit filed on January 18, 2017 by the concerned Junior Assistant, who

has stated that between the period end of April, 2013 or beginning of May 2013 he contacted the petitioner on the mobile phone No.9555057109 to inform him that he has to fill the examination form and pay the examination fee to enable him to appear in the examination. Thereafter, the petitioner visited the examination Branch of the respondent No.1 in person and the petitioner was handed over the letter dated May 6, 2013. However, he did not submit the examination form nor submitted the examination fee. Hence, the papers, in which the petitioner had sought permission as a special chance to appear in the examination could not be included in the date sheet for August, 2013. It is also stated in a further additional affidavit filed on April 11, 2017 that the date sheet for a special chance examination, which was scheduled to be held from August 16, 2013 was released for students of old courses on August 1, 2013 and the papers incorporated in the date sheet were based on the examination form, submitted by the respective students. Since the petitioner did not submit the examination form and the fee, hence his backlog papers were not incorporated in the said date sheet. Mr. Rupal seeks the dismissal of the writ petition.

7. Having heard the learned counsel for the parties and noted the contents of the pleadings/affidavits filed by them, it is clear that the petitioner did not submit the examination form nor fee. Respondent No.1 is correct in stating that without the deposit of the examination form and the fee thereto, the paper in which he was to appear could not have been reflected in the date sheet, for the month of May, 2013 or for that matter August 2013. From the affidavit of the Junior Assistant, which has not been rebutted, it must be inferred that the Junior Assistant did make a call, calling upon the petitioner to

deposit the examination form and fee. As the petitioner did not deposit the examination form and the fee thereof, surely the petitioner could not have sat in the examination.

8. If that be so, there is no dispute that the span period had already expired. In view of the expiry of the span period, no mandamus can be issued to the respondents to allow the petitioner to sit in the examination of the remaining papers, even under the new syllabus. That apart, the special chance, which was offered to the petitioner could not be availed of by him for reasons best known to him. This Court is of the view that the facts of this case, as noted above, does not warrant any interference in the Notification dated October 10, 2012 and also the petitioner would not be entitled to the limited plea as urged by Mr. Saxena that the petitioner be granted one opportunity for writing the examination under the new syllabus. The writ petition is dismissed. No costs.

CM Nos. 2464/2014

Dismissed as infructuous.

MAY 24, 2017
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V. KAMESWAR RAO, J