

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 15.12.2017

+ LPA 708/2017

MOHIT KADIAN

..... Appellant

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr Sharvan Dev with Mr Pankaj Kashyap,
Advocates.

For the Respondents : Mr Amit Bansal and Ms Seema Dolo,
Advocates for R-1.
Mr S.Shekhar for Mr G.K.Pathak, Advocate
for R-2.

CORAM:-

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

SANJEEV SACHDEVA, J. (OPEN COURT)

1. By this appeal the Appellant impugns the order dated 26.09.2017 whereby the petition seeking a direction to the respondents to allow the Petitioner/Appellant to submit his internal examinations for the subjects of the Fifth Semester, has been dismissed as being without any merit.

2. The Appellant was a student of B. Tech. with respondent University and studying at the second respondent (hereafter referred

to as “college”). The Appellant also actively participated in NCC. The Appellant attended the NCC Camp held from 26.10.2015 to 06.11.2015. On return from the Camp it was detected that the Appellant was suffering from Chikungunya. The Appellant remained ill for nearly 25 days.

3. On account of attending the NCC camp and illness, the Appellant missed the Internal examinations of four papers of the Fifth Semester which were held during the said period. The Appellant approached the college authorities seeking permission to write the internal examinations which he had missed, however the request was declined. It is contended that the Appellant on 06.01.2015 gave a representation to the college authorities seeking permission to resubmit his internal assessments. The submission of the said representation has not been substantiated before the learned Single Judge. It is contended that even though the Appellant had not taken the internal assessment examinations, he has, instead of being marked absent, been awarded ‘0’ (Zero) marks.

4. The Appellant, who claims to have been selected as a Sub-Lieutenant for the Naval Electrical Branch in the Indian Navy, however, on account of not having qualified the B. Tech Exam, is not in a position to submit the result for the same. He once again represented to the college on 05.06.2016 seeking permission to submit his internal examination assignments and to take the house

examinations so that he could be marked for the internal assessments. The College has forwarded a request to the respondent no.1 - University on 14.06.2017 seeking approval for resubmissions of the internal assessment marks of the Appellant as a One Time Measure. The said request not having been acceded to, accordingly the Appellant approached the Writ Court.

5. Learned Single Judge by the impugned judgment on an appreciation of the Ordinance of the University held that it did not permit resubmission of the internal assessments marks after the result had been declared and accordingly, dismissed the petition as meritless.

6. Learned counsel for the Appellant contended that firstly, the rules did not stipulate that an application for resubmission of the internal assessments had to be made prior to the declaration of the results and; secondly, since the Appellant had not submitted the assignment for internal assessments and not taken the house examinations, the respondent could not have awarded the Appellant '0' marks but should have marked the Appellant as absent which would have entitled him to reappear in the internal assessments. Thirdly, it is contended that a carry forward of '0' marks for the internal assessment even for the theory papers in which he was reappearing, in the facts and circumstances of the case is unwarranted.

7. Learned counsel for the college supported the case of the

Appellant and reiterated that they had on 14.06.2017, keeping in view the peculiar facts and circumstances of the case that the Appellant had been selected for the Indian Navy, requested the University to grant an approval as a one-time measure for resubmission of the internal assessment marks of the Appellant.

8. Learned counsel for the University reiterated the contentions that any application for correction in the internal assessment marks, had to be done before the result is declared. Further it is contended that since the Appellant had been marked '0' in the internal assessment examinations, the marks shall be carried forward for subsequent improvement examinations and shall be taken into account for assessing the qualifying percentage along with the result of the improvement examination of the theory paper.

9. Since reliance is placed on Ordinance VIII-E of the University, it may be expedient to refer to the relevant rules relied upon. Ordinance VIII-E : Internal Assessment reads as under:-

“2. 25% of the maximum marks in each paper in undergraduate courses shall be assigned for Internal Assessment and the remaining 75% marks for the annual/semester University Examination; the time duration and other modalities of the annual/semester Examination with respect to this 75% component shall remain as per existing schemes of examination for various undergraduate courses.

2.1.1 *There shall be 10% weightage assigned to House Examinations to be conducted by each college, for all subjects in Pass course and B.Sc. (General) and all papers of the main Subject in Honours courses.*

2.1.2 *The duration of each paper in the House Examination shall be the same as the duration in the University Examination. The maximum marks for each paper of the House Examination shall be 100 or the same as the maximum marks in the corresponding University Examination.*

2.2.1. *Each student shall be assessed on the basis of written assignments/tutorials as well as on the basis of project reports/term papers/seminars. There shall be 10% weightage for such written assignment; and project reports / presentations / term papers / seminars. Each student shall be given at least one written assignment per paper in each term, subject to a maximum of 12 written assignments per year for all the papers taken together.*

2.2.3 *There shall be 5% weightage of regularity in attending lectures and tutorials, and the credit for regularity in each paper, based on attendance, shall be as follows:*

More than 67% but less than 70% - 1 marks

70% or more but less than 75% - 2 marks

75% or more but less than 80% - 3 marks

80% or more but less than 85% - 3 marks

85% and above - 5 marks

[Medical certificates shall be excluded while calculating credit towards marks to be awarded for regularity, though such certificates shall continue to be taken into account for the purpose of calculating eligibility to appear for examinations as per the existing provisions of Ordinance VII 2.9.(a)(ii)]

6.1 In the case of students who repeat one or more paper(s), or all papers of Part I or Part II or Part III, the Internal Assessment marks shall be carried forward.

8. In the case of a student who is selected as a member of the N.C.C. to participate in the annual N.C.C. Camps or is deputed to undertake Civil Defence work and allied duties, or in the case of a student who is enrolled in the National Service Scheme and is deputed to various public assignments by or with the approval of the Head of the institution concerned, or a student who is selected to participate in sports or other activities organized by the Inter-University Board or in national or international fixtures in games and sports approved by the Vice Chancellor, or a student who is required to represent the University at the Inter-University Youth Festival, or a student who is required to participate in periodical training in the Territorial Army, or a student who is deputed by the College to take part in Inter-College sports, fixtures, debates, seminars, symposia or social work projects, or a student who

is required to represent the College concerned in debates and other extra-curricular activities held in other Universities or such other activities approved by the Vice Chancellor, the following provisions will apply:-

- 8.1 *A student in the categories listed above, will have to fulfil the requirement of written assignments and projects/term papers/seminars/filed-work with the flexibility, however, that he/she may, if necessary, be allowed additional time for submission of written assignments.*
- 8.2 *A student in the categories listed above, who is unable to write the House Examination on account of his/her participation in such aforesaid activities, may be assessed by the College through an alternative mode in lieu of the House Examination. This may be done only in exceptional circumstances.*
- 8.3 *A student in the categories listed above, will get the benefit of attendance for Internal Assessment for the classes missed as per the existing provisions of Ordinance VII.2.(9)*
(a) (i)

10. The Ordinance stipulates that 25 % marks are assigned for Internal Assessment. The said 25% is further sub-divided with 5% weightage for attendance and 10% to House Examinations leaving a balance of 10% for written assignments and projects etc. The Ordinance further provides that students of select category, *inter alia*,

those selected to participate in annual N.C.C. camps would be allowed additional time for submission of written assignments and a student who is unable to write the House Examination on account of his/her participation in specified activities may be assessed by the college through an alternative mode in lieu of the House Examination, though it may be done in exceptional cases.

11. The Respondent University has relied upon a communication dated 11.11.2016 addressed by it to various Head of Departments/Principals informing them that every year examination branch received requests from departments and Colleges for giving Fresh/Revised Internal Assessment Marks to various students due to errors committed by the Departments and Colleges at the stage of compilation/submission of Internal Assessment Marks. It required the Departments/Colleges to submit the rectification request after declaration of results but before the commencement of next semester examinations.

12. It is relying upon this communication that the learned single judge seems to have held that the application for rectification had to be made before 02.01.2016 (the date of declaration of result).

13. The finding is clearly erroneous. Firstly, the communication dated 11.11.2016 does not stipulate that the application is to be made before the declaration of result, rather stipulates that the same is to be submitted after the declaration of result but before the next semester

examination. Secondly, it may be seen that the communication is dated 11.11.2016, whereas the Appellant is seeking rectification of marks of the Internal Assessment papers held in October – November, 2015. It is also not borne out that the said communication was brought to the notice of the students. Thirdly, no plausible explanation has been rendered as to how the Appellant was awarded Zero Marks and not marked absent when the Appellant was admittedly absent and because of having been selected for participation in the N.C.C. camp and medical reasons could not appear in the House Examinations and submit the Internal Assignment.

14. The Appellant has also not been given the benefit of the Ordinance which stipulates that students selected to participate in annual N.C.C. camps would be allowed additional time for submission of written assignments and a student who is unable to write the House Examination on account of his/her participation in specified activities may be assessed by the college through an alternative mode, in lieu of the House Examination. Further, the case of the Appellant has also now been recommended by the Respondent College.

15. In view of the above discussion, the appeal is allowed. The impugned order dated 26.09.2017 is set aside. The College is directed to conduct the Internal Assessment of the Appellant. The College shall, within one week, communicate to the Appellant the

requirements of written Assignments and/or projects/terms papers, to be fulfilled by the Appellant and also the House Examination or the alternative mode as stipulated by Ordinance VIII-E 8.2, that the Appellant has to take. The internal assessment marks be submitted by the College to the University within a period of four weeks. The University shall, within two weeks of the receipt of the internal assessment marks issue the revised marksheet to the Appellant and upload the same.

16. Order *Dasti* under signatures of Court Master.

SANJEEV SACHDEVA
(JUDGE)

S. RAVINDRA BHAT
(JUDGE)

DECEMBER 15, 2017

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