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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 311 of 2018**

Dirghesh Pratap Singh, S/o Shri Alakh Ram, aged about 23 years, Occupation Student, R/o Village Umeshwarpur, P.S. & Tahsil Premnagar, Civil & Revenue District-Surajpur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the Secretary, Department of Technical Education, Mahanadi Bhawan, Capital Complex, Mantralaya, Naya Raipur, District Raipur (CG)
2. Chhattisgarh Swami Vivekanand Technical University, Bhilai (CG) Through its Vice Chancellor, Chhattisgarh Swami Vivekanand Technical University, Bhilai, District Durg (CG)
3. Registrar, Chhattisgarh Swami Vivekanand Technical University, Bhilai, District Durg (CG)

---- Respondents

For Petitioner	:	Mr.Sunil Sahu, Advocate
For Respondent No.1	:	Mr.Avinash Singh, P.L.
For Respondents No.2&3:	:	Mr.Gagan Tiwari, Advocate appears on behalf of Mr.Rajeev Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****28/03/2018**

1. The petitioner has filed this writ petition stating inter-alia that that he is entitled for 0.01 additional mark in accordance with clause 11.3 of the Ordinance.
2. Learned counsel for the petitioner would submit that the petitioner is entitled for 0.01 additional mark in Bachelor of Engineering (Electricals & Electronics) relying upon the

judgment of the Supreme Court in the matter of **State of U.P. and another v. Pawan Kumar Tiwari and others**¹.

3. On the other hand, learned counsel for respondents No.2 and 3 would submit that the petitioner has already granted 5 additional marks, therefore, he is not entitled for grace mark as per clause 11.3 of the Ordinance.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.
5. Clause 11.1 and 11.3 of Ordinance of the Chhattisgarh Swami Vivekanand Technical University, Bhilai provides as under:-

“11.1 Deficiency up to 5 marks be condoned to the best advantage of the candidate for passing the examination, provided the candidate fails in maximum of two theory, or one theory and one practical or two practicals.

11.3 One grace mark will be awarded to the candidate who is failing/missing distinction/missing first division by one mark, on behalf of the Vice-chancellor in the DEGREE examination. This benefit will not, however, be available to a candidate getting advantage under clause 11.1.”
6. A careful perusal of the aforesaid clauses would show that candidate is not entitled for grace mark if he has already received advantage under clause 11.1.
7. It is not in dispute that the petitioner has already awarded 5 additional marks under clause 11.1 of the Ordinance, therefore, he is not entitled for grace mark.
8. The Supreme Court in the matter of **Pawan Kumar Tiwari** (supra) has held as under:-

“7. We do not find fault with any of the two reasonings adopted by the High Court. The rule of

1 (2005) 2 SCC 10

rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored. 46.50 should have been rounded off to 47 and not to 46 as has been done. If 47 candidates would have been considered for selection in general category, the respondent was sure to find a place in the list of selected meritorious candidates and hence entitled to appointment."

9. Since claim made by the petitioner is barred by clause 11.3 of the Ordinance, I do not find any ground to entertain this writ petition. Accordingly, the writ petition is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-