

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10434 of 2018

and

W.M.P.No.12399 of 2018

Armaan Saaliqh.M

.. Petitioner

Vs.

1. The Controller of Examination,
Anna University,
Chennai-600 025.
2. The Registrar,
Anna University,
Chennai-600 025.
3. The Secretary,
Government of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai-600 009.
4. The Principal,
Easwari Engineering College,
162, Bharathi Salai,
Ramapuram,
Chennai-600 089.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the first respondent in its Proceedings in Lr.No.3106/COE/C23/2018-6539, dated 26.02.2018 and quash the same as invalid, illegal and arbitrary and direct the first respondent to give the petitioner the classification of First Class B.E. (Mechanical Engineering), reflecting the same in all the academic records.

For Petitioner : Mr.T.V.Lakshmanan

For Respondents: Mr.L.P.Shanmugasundaram
for RR-1 and 2

Mr.A.Raja Perumal, Addl.G.P.
for R-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorari Mandamus to call for the records on the files of the first respondent in its Proceedings in Lr.No.3106/COE/C23/2018-6539, dated 26.02.2018 and quash the same as invalid, illegal and arbitrary and direct the first respondent to give the petitioner the classification of First Class B.E. (Mechanical Engineering), reflecting the same in all the academic records.

2. The case of the petitioner is that he joined B.E. (Mechanical Engineering) Course in the academic year 2012-2016. The petitioner was to write Seventh Semester in the subject "Computer Integrated Manufacturing (CIM)" (Subject Code ME2402), as he could not clear the same in the first attempt. The examination centre is at the fourth respondent-College and the exam was scheduled on 16.05.2017. He used to return to his native place at Gingee, Villupuram District after the exam is over and on that day, i.e. on 16.05.2017, he could not appear for the exam due to Tamil Nadu State Transport Corporation Employees indefinite bus strike and there was no bus transport from his place to Chennai, and hence, he could not write that examination on 16.05.2017.

3. According to the petitioner, non-appearance of the said examination is not intentional, but due to the above mentioned bus strike. The petitioner submitted that he requested for re-examination, since he could not appear for the said examination scheduled in the month of May 2017, and it may be treated as withdrawn and that he may be permitted to write the examination.

4. Learned counsel for the petitioner further submitted that as a special case, in terms of Regulation 17.3.1 of the Anna University, withdrawal of examination for special cases under extraordinary conditions will be considered on the merit of the case. The learned counsel for the petitioner also drew the attention of this Court to Regulation 16.2 of the Anna University and contended that the student will have to complete the examination within the specified minimum number of semesters, plus, one more year (two semesters) of grace time. In this case, if the non-appearance of the examination in May 2017 is treated as one of withdrawal, in terms of the Regulations, the petitioner would be well within 10 semesters and that the petitioner would be entitled to First Class. For the sake of convenience, Regulations 16 and 17 of the Anna University, are extracted below:

"16. Classification of the degree awarded:

16.1. A candidate who qualifies for the award of the Degree (vide clause 15) having passed the examination in all the courses in his/her first appearance within the specified minimum number of semesters securing a CGPA of not less than 8.50 shall be declared to have passed the examination in First Class with Distinction. For this purpose the withdrawal from examination (vide clause 17.4) will not be construed as an appearance. Further, the authorised break of study (vide clause 18.3) will not be counted for the purpose of classification.

16.2. A candidate who qualifies for the award of the Degree (vide clause 15) having passed the examination in all the courses within the specified minimum number of semesters plus one year (two semesters), securing a CGPA of not less than 6.50 shall be declared to have passed the examination in First Class. Further, the authorised break of study (vide clause 16.3) will not be counted for the purpose of classification.

16.3. All other candidates (not covered in clauses 16.1 and 16.2) who qualify for the award of the degree (vide clause 15) shall be declared to have passed the examination in Second Class.

16.4. A candidate who is absent in semester examination in a course/project work after having enrolled for the same shall be considered to have appeared in that examination for the purpose of classification (subject to Clauses 17 and 18).

17. Provision for withdrawal from end-semester examination:

17.1. A candidate, may for valid reasons and on prior application, be granted permission to withdraw from appearing for the examination of any one course or consecutive examination of more than one course in a semester examination.

17.2. Such withdrawal shall be permitted only once during the entire period of study of the degree programme.

17.3. Withdrawal application is valid only if it is made within 10 days prior of

the commencement of the examination in that course or courses and recommended by the Head of the Institution and approved by the Controller of Examinations.

17.3.1 Notwithstanding the requirement of mandatory TEN days notice, applications for withdrawal for special cases under extraordinary conditions will be considered on the merit of the case.

17.4. Withdrawal shall not be construed as an appearance for the eligibility of a candidate for First Class with Distinction. This provision is not applicable to those who seek withdrawal during VII Semester.

17.5. Withdrawal from the End semester examination is NOT applicable to arrears subjects of previous semesters.

17.6. The candidate shall reappear for the withdrawn courses during the examination conducted in the subsequent semester."

5. Learned counsel for the petitioner further submitted that the petitioner has secured Cumulative Grade Point Average (CGPA) of 7.53 and that there is no fault on the part of the petitioner in not appearing for the examination in May 2017, as it is due to beyond his control.

6. Though no counter affidavit is filed by the respondents, the learned counsel for the respondents 1 and 2/Anna University submitted that the student has joined the course in 2012 and he has completed the course in 2016 and that within five years from the date of joining the course, the petitioner should clear all the papers without arrears in order to get First Class. In this case, the petitioner has not cleared the papers within four years, namely eight semesters, and he also not cleared within the extended period of one year, namely two more semesters. The reason given by the petitioner for non-appearance of examinations in May 2017, cannot be accepted and that the grant of Second Class to the petitioner is perfectly in order. Even though the petitioner has secured CGPA of 7.53, as he has not cleared the examinations within the extended period of two more semesters, namely within total ten semesters from the date of joining the course, the petitioner is not entitled to the relief sought for in this Writ Petition and that the petitioner is rightly awarded Second Class in B.E. (Mechanical Engineering).

7. Learned counsel for the respondents 1 and 2 further submitted that the petitioner is aware of the fact that the bus strike was declared on that particular day and he should have made arrangements to stay in and around the place/centre of the

examination itself, and written the examination on that day and giving a lame excuse cannot be accepted.

8. In terms of Regulation 16 of the Anna University extracted supra, it is seen that the petitioner has written the examination within 10 semesters and that the examination was scheduled in the month of May 2017, and he could not appear as scheduled, on account of the bus strike, which is beyond his control. It is submitted by the learned counsel for the petitioner that withdrawal request from appearing in the examination, can be considered for the purpose of extending the benefit to the student.

9. It is true that in the decision relied on by the learned counsel for the respondents 1 and 2, reported in CDJ 2018 MHC 2644 (N.S.Saravanan Vs. Anna University, represented by its Registrar, Anna University Campus, Guindy, Chennai and others), there was no approval of the petitioner's admission therein and that the petitioner therein has written the semester examination pursuant to the interim order of this Court and that there was a break in the course and that award of Second Class to the student who has secured 7.55 CGPA marks, was declared to be treated as Second Class only. The facts in the present case are distinguishable from that case.

10. The learned counsel for the respondents 1 and 2 produced the instructions given to the counsel through communication, dated 25.04.2018. The only contention is that according to Regulation 16.2 of Anna University Regulations, a candidate who qualifies for the award of the Degree (vide Regulation 15) having passed the examination in all the courses within the specified minimum number of semesters plus one year (two semesters), securing a CGPA of not less than 6.50 shall be declared to have passed the examination in First Class. It is further given in the instructions that the authorised break of study (vide Regulation 18.3) will not be counted for the purpose of classification. It is also stated in the said instructions to the counsel for respondents 1 and 2, that according to the above Regulations, the petitioner-student would have completed his course before April/May 2017, but he has completed his course only in November/December 2017. Notwithstanding he had secured CGPA 7.53, the First Class was not awarded to him, as he did not complete the course in the stipulated time as prescribed in the Regulations. According to the respondents in the said instructions, the reason emphasised by the student for his absence for the examination, is not reasonable and convincing, since a lot of students in the same college attended all the examinations without absence, and hence, the Degree awarded by the University was based on the Regulations only and there had been no deviation on any account.

11. The facts mentioned supra, are not in dispute. It is a fact that the petitioner could not write the examination on 16.05.2017 on account of the bus strike. The bus strike is not disputed by the respondents. The contents of the Anna University Regulations mean that there should be a break during the currency of the academic year(s). Admittedly, there is no break of study in the case on hand. The petitioner has completed the course without any break of study. In this case, the petitioner could not appear for the examination due to bus strike and certainly, it has got to be treated as authorised break, as neither the College/University, nor the student, can be blamed, as the student was prevented from writing the examination on 16.05.2017 by going to the Examination Hall.

12. In view of the foregoing discussion, the Writ Petition is allowed. The impugned order is set aside. As the petitioner herein is not at fault, he shall be treated to have obtained First Class and the respondents herein are directed to issue fresh certificate/mark list with regard to the course/semester concerned and the respondents shall also issue fresh Degree Certificate indicating his Grade as First Class, if he is otherwise found eligible to get the same, leaving alone the examination that could not be written due to bus strike on 16.05.2017 as discussed supra. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

cs.

To

1. The Controller of Examination,
Anna University, Chennai-600 025.
 2. The Registrar, Anna University,
Chennai-600 025.
 3. The Secretary, Government of Tamil Nadu,
Department of Higher Education,
Fort St.George, Chennai-600 009.
- + 1 cc to MR. L.P.Shanmugasundaram, Advocate Sr.42862
+ 1 cc to MR. Government Pleader Sr.42364
+ 1 cc to MR.T.V. Lkshmanan, Advocate Sr.42106
+ 1 cc to MR. P. Babu, Advocate Sr.41760

W.P.No.10434 of 2018

SR(CO)
EU(20/07/2018)