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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 483/2018, CM No. 34479/2018
PAWAN MATHPAL

..... Appellant
Through: Mohd. Azam Ansari, Adv.

versus

UNION OF INDIA & ORS

..... Respondent
Through: Mr. Vijay Joshi, Sr. Panel Counsel for
R-1/UIO
Mr. Mohinder J.S. Rupal, Adv. with
Mr. Prang Newmai, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **27.08.2018**

1. The challenge in this appeal is to the order dated July 12, 2018 of the learned Writ Court in W.P.(C) NO. 8911/2015 whereby the learned Writ Court has dismissed the petition, which was filed by the appellant herein seeking the following reliefs:-

*“In view of above mentioned facts and circumstances,
this Hon’ble Court may graciously be pleased to:-*

*(A) Issue an appropriate writ(s)/ order(s) / direction(s)
in the nature of mandamus directing the respondents to
award the marks of internal assessment to the petitioner*

which was inadvertently not awarded to the petitioner in the second year despite carrying out all assignments by the petitioner required for internal assessment with further directions to award the petitioner the applicable grace marks in all the three failed subjects and accordingly to declare the petitioner as having passed in the aforesaid three subjects and qualified for award of his BA degree.

Or in the alternative

(B) Issue an appropriate writ(s) / order(s) / direction(s) in the nature of mandamus directing the respondents to accept the form of the petitioner for his examination and permit the petitioner to appear at the examination for his left over three subjects / papers in the next examination which is likely to be conducted any time this month or next month i.e in September-October 2015.

(C) Cost of this petition may also pleased be awarded to the petitioner as petitioner who was unable to afford litigation was forced into the present litigation by the respondents.

(D) Pass such order(s) as this Hon'ble Court deems fit and proper in facts / circumstances of case and for justice."

2. The dismissal of the writ petition by the learned Writ Court is by relying upon the judgment of the Division Bench of this Court in **LPA No.**

956/2013 titled *Amit Kumar vs. Delhi University and another* and LPA No. 258/2018 *Awadesh Kumar vs. Delhi University*. In both the cases, the Division Bench of this Court has upheld the action of the University for not extending the span period for completing an educational course / programme.

3. It is the submission of the learned counsel for the appellant, by relying upon the operative part of the judgment of the Division Bench in ***Amit Kumar (supra)*** (para 35 reproduced as under) that the respondents cannot continue with the span period and should have allowed the appellant to sit in the three papers which could not be cleared by the appellant.

“We accordingly dispose of these appeals / writ petition:-

(I) by directing the respondent University of Delhi to, within three months herefrom, have the aspects of, (a) need to continue with the span period; (b) whether Ordinance X-C applies to span period also, in the meeting of its Academic Council; and to pass a Resolution on both aspects giving reasons therefor;

(II) by directing the respondent Jamia Millia Islamia University to have the matter relating to the need for having the span period and if so, the need to provide for exemption in exceptional cases therefrom, considered in its appropriate body and to pass a reasoned order

thereon, within three months from today.

(III) by directing the Secretary, Ministry of Human Resource Development, New Delhi to, in consultation with the educationist, in an appropriate for a, debate and arrive at a consensus and to lay down Policy Guideline to be followed by the Universities in the matter of the need for having a span period for completing the courses / programmes being offered by the Universities.”

4. He also submits that there were certain compelling reasons, inasmuch the appellant, for the period between 2010 to 2013 had suffered mental illness because of which he could not pursue the academic education during that period and complete his B.A. Course. He states that there is a favourable recommendation of the College concerned for allowing the appellant to write the exam of the left out papers beyond the span period.

5. On a specific query from the Court whether there is any provision allowing the Authorities to consider, in a given case, the compelling circumstances because of which a student could not complete the course within the span period, the answer was in the negative. If that be so, in the absence of any provision for consideration of the case by the University, no directions as sought can be given by this Court. The learned Single Judge has rightly, on a consideration of the position of law, rejected the plea of the

appellant for allowing him to appear in the examination beyond the span period.

6. During the course of his submissions, learned counsel for the appellant has stated that the learned Writ Court has not considered prayer (a) made by the appellant in the writ petition. On a specific query as to when did he pursue the second year of the course for which he is seeking marks of internal assessment, his answer was, in the year 2011. We note that the writ petition was filed in the year 2015 after a period of more than four years after the internal assessment was held. It is too late in the day to give a direction in the nature sought for in prayer (a). It appears, for that reason, the learned Writ Court has rejected the prayer (a) as the same would be an exercise in futility.

7. We do not see any merit in the appeal. The same is dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 27, 2018/ak