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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision 09.05.2018.

+ W.P.(C) 10971/2017

HARSHITA PANDE

..... Petitioner

Through Mr.Kuldeep Rai, Adv. with
Mr.Ankur Jain, Adv., Mr.Ritesh
Bindra, Adv. & Mr.Rukban
Tyagi, Adv.

versus

UNIVERSITY OF DELHI AND ORS.

..... Respondents

Through Mr. Mohinder J.S. Rupal, Adv.
with Mr.Prang Newmai, Adv.
& Ms. Slomita Rai, Adv. for
University of Delhi.
Mr.A.P.S. Ahluwalia, Sr. Adv.
with Mr. Jatin Teotia, Adv. for
R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

JUDGMENT

REKHA PALLI, J (ORAL)

1. The Petitioner, an ex-student of the Respondent No.2/Dayal Singh College, which is affiliated with Respondent No.1/University of Delhi, has preferred the present petition under Article 226 of the Constitution of India, *inter alia* seeking issuance of a direction to the Respondents to allow the addition of 19 marks, secured by her in the internal assessment in the subject of '*Geography of India*' (hereinafter

referred to as the 'said subject') of the fourth semester, to her final result in the course of B.A. (Hons.) Economics.

2. The brief facts as emerge from the record are that, the Petitioner, who was a student of B.A. (Hons.) Economics in the Respondent No.2 from the academic year 2014 to 2017, had appeared in the internal examination in the subject of '*Geography of India*' (*Paper Code 229472*) of the fourth semester during the period of April-May, 2016, as a part of her curriculum. As per the guidelines issued by the Respondent No.1, out of a total of 100 marks, a student was to be assessed on the basis of 80 marks which were reserved for the theory part of the exam and on the basis of 20 marks, reserved for the internal assessment of the exam.

3. It is the Petitioner's case that she was granted 19 marks out of 20 marks in the internal assessment of the aforesaid subject, which marks were duly announced by the concerned subject teacher Mr. Abhay Prasad in the open class. After the result of the internal assessment was displayed on the notice board on 27.05.2016, the Petitioner realized that she had been granted '0' marks in the internal assessment instead of 19 marks, as announced by her subject teacher in the class. Aggrieved by the grant of '0' marks, the Petitioner immediately approached the concerned teacher, who in turn advised her to approach the office staff responsible for forwarding the Internal Assessment marks to the concerned Dean of the Respondent No.1. The Petitioner claims that she was assured by the teacher that there was no reason for her to worry as the necessary correction would be

done by the office and forwarded to the Respondent No.1 in due course.

4. It is urged in the writ petition that the Petitioner duly approached the concerned staff and also regularly kept approaching Mr. Abhay Prasad, the concerned subject teacher, but as there was no progress in her case, she finally submitted a written representation dated 25.10.2016 to the Principal of the Respondent No.2, pointing out the aforesaid mistake in her internal assessment marks. A copy of the said representation has been annexed along with the petition and the said representation contains an endorsement by Mr. Abhay Prasad, the concerned subject teacher to the same effect. On submission of her representation, the Petitioner was informed by the concerned Dealing Assistant-Mr. Santosh, a contractual employee of the Respondent No.2, that her application had been duly forwarded to the Respondent No.1 and she was also provided with letter bearing number *DSE/ADMN/127*, whereby her representation had been forwarded to the Respondent No.2. The Petitioner further asserts in the petition that after she appeared in her fifth semester examination, she realized that the requisite correction had still not been carried out and thus, she again approached Mr. Santosh, the Dealing Assistant, who assured her that he had duly forwarded the corrected marks to the Respondent No.1 and that the same would be corrected in due course.

5. It further transpires that in July, 2017, the Principal of Respondent No.2 vide his letter dated 03.07.2017 requested the Respondent No.3 i.e. the Dean (Examinations) of Respondent No.1, to correct the internal assessment marks of eleven students including the

Petitioner. It was categorically stated in the said letter that the representations of these students had been received by the Respondent No.2 well in time, however, the same could not be forwarded to the Respondent No.1 for necessary corrections due to the mistake of the Dealing Assistant, who had left the job and, therefore, even though no specific reasons could be assigned for the delay, it was urged therein that since the aggrieved students were all in their final year, their case for correction of marks may be considered as a special case sympathetically. While the request of the Respondent No.2 was pending consideration with the Respondent No.1, the result of the final (6th semester) was published on 11.07.2017 and the Petitioner secured 1487 marks out of 2500 marks in total and thus on account of failure on part of the Respondent No.1 to carry out the necessary correction, she obtained only 59.58% i.e. Second Division.

6. In these circumstances, the Petitioner again made requests repeatedly to both Respondent No.2 and Respondent No.3 i.e. the Dean of the Respondent No.1, but to no effect and it was finally vide letter dated 12.10.2017 that the Petitioner was informed by the Respondent No.1 that her case had already been sent to the Respondent No.2 vide letter dated 11.07.2017. A copy of the same was also provided to the Petitioner, from which it transpired that the Respondent No.1 had informed the Respondent No. 2 that in view of the letter dated 11.11.2016 informing the Dean (Examinations) of all the departments/colleges that applications for correction in the Internal Assessment marks would be accepted only before the commencement of the next semester examinations, the cases of the eleven students

including the Petitioner, could not be processed by Respondent No.1 at this stage as their cases were already an year old and two semesters had already passed since their examination. It is in these circumstances, that the Petitioner has approached this Court by way of the present petition.

7. Upon notice, the Respondent No.1 and Respondent No.2 have filed their counter affidavits. The Respondent No.2 in its counter affidavit has categorically supported the claim of the Petitioner, by clearly stating that she had submitted her request for correction of her internal assessment marks within five months from the display of the said result on the notice board and the same could not be forwarded to the Respondent No.1 due to the fault of the Dealing Assistant of the Respondent No.2 namely Mr.Santosh, who had not only failed to forward her request letter to the Respondent No.1 in time but had also given her a fake office letter no. *DSC/ADMN/127* by assuring her that he had duly forwarded her request to Respondent No.1.

8. The Respondent No.2 in its counter affidavit has also categorically stated that the Petitioner had been awarded 19 marks out of 20 marks in her internal assessment and she should not be allowed to suffer and become a victim of the mistake of an ex-employee of the Respondent No.2 itself.

9. On the other hand, Respondent No.1 has, in its counter affidavit and additional affidavit, vehemently opposed the writ petition by stating that, since the Petitioner's representation was received beyond the prescribed period of six months for such correction, the same was rightly rejected. The Respondent No.1 has also stated that it cannot

accept such a belated and unsubstantiated request from the Respondent No.2 without any corroborating documents and that the documents produced by the Respondent No.2 could not be relied upon, as there was no valid justification for the inordinate delay on the part of the Respondent No.2 for forwarding the representation to the Respondent No.1. The Respondent No.1 has averred in its additional affidavit that the proforma produced by the Respondent No.2 did not show the signature of the Monitoring and Moderation Committee, as required under Ordinance VIII-E of the University guidelines.

10. In view of the aforesaid contrary stand taken by the Respondents in their counter affidavits, Mr. Kuldeep Rai, learned counsel appearing for the Petitioner, contends that once the Respondent No.2 has categorically admitted that it was only because of the lapse on their part that the Petitioner's request for correction of marks in her internal assessment could not be forwarded within the prescribed time, there is no reason as to why the Petitioner should suffer on account of the mistake of the Respondent No.2. He, further, submits that the Petitioner had initially made oral requests to Mr. Abhay Prasad, the said subject teacher, who had assured her that the needful correction would be done and it is only after waiting for a long time, the Petitioner finally made her representation dated 25.10.2016 to the Respondent No.2, which, as now transpires, had not been forwarded to the Respondent No.1 within the prescribed period of six months only because of the fault of the Dealing Assistant of the Respondent No.2.

11. Mr. Rai, thus, contends that in these circumstances, the Petitioner, a *bona fide* student who had duly scored 19 marks in her internal assessment of the said subject, cannot now be denied the benefit of the marks which she actually deserves and was awarded, only due to a mistake on the part of the Dealing Assistant of the Respondent No.2 in not forwarding her request within the prescribed time.

12. Mr.Ahluwalia, learned Senior Counsel appearing for the Respondent No.2, while reiterating the submissions made in the counter affidavit supporting the claim of the Petitioner, contends that there is no reason for the Respondent No.2, which is a renowned University College, to make any false statement in support of the Petitioner.

13. Mr. Ahluwalia submits that the record maintained by the Respondent No.2 clearly shows that the Petitioner had actually been awarded 19 marks in her internal assessment of the said subject but due to negligence on the part of the Dealing Assistant, a contractual employee of the Respondent No.2, the said information could not be communicated to the Respondent No.1 within the requisite time period and, therefore, urges this Court to allow the present petition.

14. On the other hand, Mr.Rupal, learned counsel appearing for the Respondent No.1 and 3, vehemently opposes the present petition and contends that once the Respondent No.2 had duly forwarded the result of the internal assessment to the Respondent No.1, the same was duly incorporated by the Respondent No.1 in her final result. He also contends that the Respondent No.2 has failed to produce any

document to show that the Petitioner had, in fact, secured 19 marks out of 20 marks in her internal assessment of the said subject.

15. Mr. Rupal further submits that the proforma for the internal marks produced by the Respondent No.2, cannot be relied upon as there is a clear over-writing on the roll number and name of the Petitioner. In support of his aforesaid contention, Mr. Rupal submits that even though the Petitioner's name appears in the proforma at serial no. 36, there is a change in the roll number in respect of the entry at serial number 24 and even the name in the said entry has been altered from Harshita Gupta to Harshita Pande.

16. Mr. Rupal submits that even otherwise once it is the case of the Respondent No.2 itself that the result of the internal assessment was duly put up on the notice board and on its website on 27.05.2016, there is no justification as to why the Petitioner waited till 25.10.2016 to make a representation for correction of her internal assessment. He contends that despite all the circumstances having been duly notified on 27.05.2016 itself that the students were required to see their internal assessment marks and confirm their names by signing in person or by sending an e-mail before 30.05.2016, the Petitioner failed to point out any discrepancy in respect thereof within the prescribed time.

17. I have heard learned counsels for the parties at length and, with their assistance, perused the record as also the Ordinance VIII-E of the Respondent No. 1. Upon a careful consideration of the submissions advanced at the Bar, I find that there is no dispute about the fact that the Respondent No.2 has categorically stated that the Petitioner was

actually awarded 19 marks in her internal assessment in respect of the 4th semester exam of *Geography of India* subject. I also find that the Respondent No.2 has also categorically stated that the Petitioner had made a representation to the College on 25.10.2016 itself, seeking correction in the result of her internal assessment.

18. Another undisputed fact which emerges from the record is that the Respondent No.2 had, on 29.06.2017, sent a request to the Respondent No.1 to consider the request of 11 students including the Petitioner for correction in their internal assessment marks in different subjects.

19. At this stage, it may be appropriate to reproduce the Petitioner's representation dated 25.10.2016 and the Respondent No. 2's letter dated 28.06.2017 in its entirety, which read as under: -

“ Representation dated 25.10.2016 submitted by Petitioner

25.10.2016

To
The Principal
Dyal Singh College, Lodhi Road
New Delhi

Respect Sir,

Due to some error marks of Harshita Pande (Roll no.14/52157) of B.A.(Hons.) Economics in the subject Geography of India has not been allotted in the final result. Out of 20 she has scored 19 marks.

Harshita Pande
(Roll no.14/52157)
Scored 19 out of 20 in the internal mark
Sd/- Mr.A.S .Prasad on 25.10.2016

Letter dated 29.06.2017 sent by Respondent No. 2

Ref No. DSC/ADMN/264

To,

*The Dean (Examinations)
University of Delhi
North Campus
Delhli-110007*

Subject- Correction of Internal Assessment marks of students.

Dear Sir,

This is to bring your kind notice that the following students have submitted representations for correction in IA Marks. The representations were received in time but due to the mistake of Dealing Assistant the cases could not be forwarded to the University for necessary corrections. The concerned Assistant has left the job and, therefore, specific reasons for delay cannot be assigned.

S.No.	University Exam Roll No.	Name	Course
1.	14021201363	Niha Aslam	B.A.(Prog) 201
2.	14021201286	Long Manorann Meitei	B.A.(Prog) 201
3.	14021210075	Harshita Pande	B.A.(H) Eco 210
4.	14021210257	Yamini Jadon	B.A.(H) Eco 210
5.	14021263055	Himadri Binjola	B.Sc (H) Maths 263
6.	14021283082	Kiran Kumari	B.Sc Life Sciences 283
7.	14021283067	Ishani Paul	B.Sc Life Sciences 283
8.	14021218066	Mohit Kumar	B.A.(H) History 218
9.	14021211033	Bhawna	B.A.(H) English 211

10.	14021213073	Saurabh Mehra	B.A.(H) Geo 213
11	14021213034	Kumar Ranjan	B.A.(H) Geo 213

The aggrieved students are in their final year and to safeguard the career and future of the students, it is requested to consider the same as special case and sympathetically.

Dr.I.S.Bakshi (Principal)

Sd/-

20. It is pertinent to note here that, even though the Respondent No.1 had rejected the Respondent No.2's request for making the necessary corrections in the internal assessment marks of eleven students including Petitioner, on the ground that as per its circular dated 11.11.2016, the requests for such corrections could be accepted only before the commencement of the next semester examinations, the Respondent No.1 has taken another plea in its additional affidavit that that the Petitioner's claim is being opposed on the ground that the proforma submitted by Respondent No.2 cannot be relied upon for want of corroborating documents.

21. Thus, it appears to this Court that after the Respondent No.2 had given its justification for not expeditiously forwarding the Petitioner's representation even though the same was received well in time, the Respondent No.1 has vide its additional affidavit taken a most unreasonable plea that the record produced by the Respondent No.2 could not be relied upon as the same did not have the endorsement of the Moderation Committee as required under the Ordinance.

22. Mr.Rupal, has, however, been unable to give any reason, as to why, the Respondent No.2 which is a University College of such standing, would take pains to support the claim of the Petitioner, if it was not genuine.

23. I have also perused the statement of marks obtained by the Petitioner in 25 papers of her entire three-year degree course and I find that except for the paper in the subject of *Geography of India*, the Petitioner has always secured fairly high marks in her internal assessment and this, in my opinion, is an added factor to believe the stand of the Respondent No.2. It is, in fact, a little unfortunate that despite the Respondent No.2 persistently and in very categorical terms contending that the Petitioner had obtained 19 marks and her request, which was received well in time, could not be forwarded due to fault of a contractual Dealing Assistant, the Respondent No.1 is opposing the said averments made by the Respondent No. 2 on affidavit and that too by urging that the record produced by the college cannot be relied upon.

24. Having given my thoughtful consideration to the rival contentions of the parties, I see no reason to disbelieve the plea of the Respondent No. 2 that the Petitioner had actually obtained 19 marks in the internal assessment in the said subject of fourth semester examinations especially when the same is supported by the record produced by the Respondent No.2.

25. For the aforesaid reasons, I find no merit in the submissions raised by the learned counsel for the Respondent No.1 that the Petitioner's plea for addition of 19 marks duly scored by her in her

internal assessment of said subject of fourth semester, to her final result of the three-year degree course, cannot be allowed. I am also of the considered opinion that, keeping in view the fact that the Respondent No.2 has duly accepted that the Petitioner had submitted her request for correction of her result in the internal assessment well in time and the same could not be forwarded to Respondent No.1 due to a fault of the Dealing Assistant, the Petitioner should not be allowed to suffer merely due to the mistake of Respondent No. 2.

26. Thus, the Respondent No.1 is directed to allow the addition of 19 marks scored by the Petitioner in her internal assessment of the *Geography of India* subject of fourth semester, to her final result.

27. The writ petition is allowed in the aforesaid terms with no orders as to costs.

(REKHA PALLI)
JUDGE

MAY 09, 2018
sr..