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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.11776 of 2019 (O&M)

Date of Decision: 18.07.2019.

Nisha

...Petitioner

Versus

PGIMER and others

...Respondents

Coram: Hon'ble Mr. Justice B.S.Walia

Present: Mr. Davinder Lubana, Advocate for the petitioner.

Mr. Narinder Kumar Vashisth, Advocate for the respondents.

B.S.Walia, J., (Oral)

CM No.10235-CWP of 2019

Replication filed along with the application is taken on record,
subject to all just exceptions.

CM stands disposed of.

CWP No.11776 of 2019

1. Prayer in the writ petition is for the issuance of a writ in the nature of Certiorari for quashing order Annexure P/14 dated 14.02.2019, whereby the respondents amended the result of the petitioner showing her as 'failed' in the 1st year examination of B.Sc. Nursing, although the same had been shown as compartment as per result Annexure P/11, dated 05.01.2019 as also for quashing letter Annexure P/14-A dated 21.02.2019, whereby intimation was given to the petitioner showing her to have failed.

2. Brief facts of the case leading to the filing of the writ petition are that on the basis of the examination conducted in the year 2017, the petitioner got admission in B.Sc. Nursing (4 years course 2017-2021). As

per the rules, a student is eligible for 45 days leave i.e. 40 days of holidays and 5 days casual leave inclusive of all types of leave including emergency leave. No other kind of leave or vacation is admissible except 15 days leave not due in exceptional circumstances on the condition that on availing of those extra 15 days leave not due, the student shall work for equivalent number of days after the date on which the student would have otherwise completed the course and that in case a student avails more than 60 days leave i.e. 45 days admissible leave plus 15 days leave not due, then the session of such student would be shifted by one year. Relevant extract of the examination rules framed by the competent authority in the PGIMER, Chandigarh is reproduced as under:-

‘During each year, the student will be eligible for leave for 45 days. The 45 days leaves includes winter and summer vacations, preparatory leaves, emergency leaves and leaves prefixed/suffixed on various occasions. No other kind of leave or vacation will be admissible. In exceptional circumstances, a student may be granted 15 days leave ‘not due’ on the condition that he/she shall work for the same number of days after the date on which he/she would have otherwise completed the course. If any student avail leave of more than 60 days in any year (i.e. 45 days admissible leave plus 15 days leave no due), his/her session will be shifted by one year.’

3. The PGIMER, Chandigarh has also framed rules with respect to condonation of shortage of attendance. Relevant extract is reproduced as under:-

The Dean of the Institute, on the recommendation of the Principal, NINE, will have the authority to condone deficiency upto 5% of the theory/practical hours. The Director, in exceptional cases, can also condone deficiency of another 5% of the theory/practical hours.”

4. As per the rules framed by the competent authority, a candidate who fails in more than two subjects is considered as fail and is not allowed to join the next higher class and is required to appear in the examination in July/August along with other candidates without attending the fresh course of instructions. However, in case such a candidate requests, permission can be granted to attend the course after paying fees. It is further provided that if such candidate is not able to qualify in the next two consecutive examinations, name of such candidate will be struck off from the course of the Institute. Relevant extract of the rules is reproduced as under:-

“Candidate who fails in more than two subjects will be considered as failed. Such candidate will not be allowed to join the next higher class and he/she will reappear in the examination in July/August along with other candidates without attending the fresh course of instructions. The candidates if he/she wishes may be permitted to attend the regular course after paying the fees. If the candidate fails to qualify in the next two consecutive examinations, his/her name will be struck off from the course of the Institute.”

5. A candidate of first year of B.Sc. Nursing is required to appear in seven subjects apart from Hindi which is an internal examination. Details of subjects and the number of theory and practical hours required to be attended by a candidate of first year of B.Sc. are as under:-

Subject-1 st year	Theory hrs	Practical hrs
Anatomy & Physiology	69+60	
Nursing Foundation	265+200 (lab)	150
Nutrition and Bio-Chemistry	60+30	
Psychology	60	
Microbiology	60 (45 theory-15 lab)	

English	60	
Introduction to Computers	45	
*Hindi	30	
Library work/self study (50 hrs) Co-curricular activities (50 hrs)		
Total	930+450+100=1480 hrs	

6. The petitioner appeared in the examination of first year of B.Sc. Nursing in July/August, 2018, while classes of the second year of B.Sc. Nursing course commenced on 01.09.2018. Result of the first year had not been declared by the time the second year B.Sc. Nursing course classes commenced. The petitioner had appeared in six subjects including internal subject of Hindi but did not appear in the subject of Introduction to Computers. The petitioner could not appear in the said paper on account of shortage of lecturers in the said subject being more than what could be condoned by the Dean and the Director as she had attended only 28 lectures against 45 lectures delivered. However, shortage of lectures in the other subjects had been condoned as per rules applicable and the petitioner had been allowed to appear in the other exams. Since the result of B.Sc. 1st year had not been declared and the petitioner had not appeared in one paper i.e. Introduction to Computers, therefore by considering the same to be a case of reappear, the petitioner was permitted to join B.Sc. Nursing 2nd year on provisional basis subject to declaration of result of B.Sc. 1st year. The result of B.Sc. 1st year was declared vide Annexure P/11 on 04.01.2019 in which the petitioner was shown to have obtained compartment in two papers. Pursuant thereto, revised result was issued vide Annexure P/14 dated 14.02.2019, wherein the petitioner was shown to have failed in B.Sc.

Nursing 1st year. Intimation of the revised result was given to the petitioner vide letter Annexure P/14-A dated 21.02.2019. The petitioner was not allowed to appear in the theory paper of introduction of computer subject on account of shortage of lectures in the examination held in July/August, 2018 and was allowed only to appear in the remaining subjects. The petitioner appeared in the remaining subjects without challenging the action of the respondents in not permitting her to appear in the Introduction to Computers subject in July/August, 2018. On account of the petitioner having failed in two papers i.e. Bio Chemistry and Nutrition and Microbiology besides not having been allowed to appear in the Introduction of Computers subject on account of shortage of lectures, the admission of the petitioner in B.Sc. Nursing 2nd Year was cancelled and she was demoted to B.Sc. Nursing 1st year.

7. The petitioner would now be required to appear in all the subjects in which she has failed as also in the subject of Introduction to Computers but she would be allowed to take the paper of Introduction of Computers only on her making good the deficit attendance by attending classes during the academic year 2018-2019. The petitioner, who is present in Court states that she has attended the requisite number of classes during the academic session 2018-2019.

8. Ms. Meenakshi Agnihotri, Tutor/National Institute of Nursing Education (NINE), PGIMER, who is present in Court states that in the eventuality of the petitioner having completed the requisite number of lectures/attendance in the subject of Introduction to Computers in the academic session 2018-2019, she would be allowed to appear in the examination of B.Sc. Nursing 1st year to be conducted in the last week of

July, 2019. She further states that in case there is any deficiency in the attendance of the petitioner in the subject of Introduction to Computers, classes would be arranged to enable her to complete the requisite attendance to enable her to appear in the B.Sc. Nursing 1st year examination.

9. In the light of the position as noted above, the writ petition is disposed of while leaving it open to the petitioner to approach the authorities through Ms. Meenakshi Agnihotri, Tutor-NINE, PGIMER, Chandigarh, at the earliest in order to ascertain her eligibility to appear in B.Sc. Nursing 1st year examination and for making arrangement for conducting of special classes to make good the deficiency in lectures in case the petitioner is still short of lectures in the subject of Introduction to Computers.

10. Writ petition is disposed of in the aforementioned terms.

(B.S.WALIA)
JUDGE

18.07.2019.
rajesh.k.khurana

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No