

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

127

CWP No.29945 of 2019
Date of Decision : 17.10.2019

Karan Goyal

....Petitioner

v/s

The Panjab University and others

....Respondents

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

Present: Mr. H.S. Deol, Advocate for
Mr. Tushar Madaan, Advocate
for the petitioner.

Mr. Suveer Sidhu, Advocate
for the respondent-University.

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

[1] Prayer in the writ petition is for the issuance of an appropriate writ, order or direction for setting aside order, Annexure P/4 dated 17.07.2019, rejecting the claim of the petitioner for free-ship and tuition fee concession and for issuance of directions to the respondents to re-consider the claim of the petitioner and deliver the requisite amount of free-ship and concession of fee to the petitioner.

[2] Brief facts of the case, leading to the filing of the writ petition are that the petitioner was admitted in B.Com, LL.B. (Honours) in the Session 2014 till 2019 in the University Institute of Legal Studies, Panjab University and was issued Roll No.45/14 beside was allotted examination Roll No.12624. Since the petitioner belonged to a family of economically weaker section of society with family income below ₹2.5 lacs, he applied for free-ship and tuition fee concession

justified, the petitioner was granted free-ship, as well as tuition fee concession. As a result thereof, the petitioner got certain financial benefits in tuition fee for the academic year 2014-2015, 2015- 2016, 2016-2017 and 2017-2018. However, in the academic year 2018-2019, the petitioner's claim for tuition fee waiver was rejected on the ground that he had got re-appear in service law paper in the 8th semester.

[3] The petitioner applied for re-evaluation, as majority of the students had been declared unsuccessful in said paper. On re-evaluation, the petitioner's marks were enhanced from 23 to 43 out of 80 as a result of which, the petitioner was declared pass in the said examination, as is evident from mark sheet, Annexure P/1.

[4] That thereafter, the petitioner submitted a representation, Annexure P/2, dated 03.06.2019 to respondent No.3, which was forwarded vide Annexure P/3 dated 10.07.2019 to respondent No.2, who rejected the same vide order, Annexure P/4 dated 17.07.2019 on the ground that the claim was not covered as per rules and guidelines of the University.

[5] Learned counsel for the respondent-University has verified the factual position and states that he does not wish to file reply. However, learned counsel has not been able to justify non admissibility of tuition fee concession vide the impugned order in terms of Clause (vi) of the rules at page No.270 of the Handbook of Information Admission, 2018, since, admittedly, the re-appear or compartment does not subsist on re-evaluation and the petitioner having been awarded 43 marks as against 23 marks out of 80 awarded earlier.

[6] I have considered the submissions of learned counsel for the parties and am of the considered view that the reasoning for passing the

[7] Clause (vi) of the rules, as contained at page No.270 of the Hand Book of Information Admission, 2018, as has been referred to in Annexure P/4 besides paragraph No.7 of the petition is reproduced as under :-

“vi. For continuation of the freeship granted to students during the first year of admission to a course, the following rider be imposed:

“The freeship will be continued in the subsequent years only if the student passes the previous examination with a minimum of 60 percent marks in the aggregate for science students and 55 percent marks for students in departments other than science. The student should have passed the examination in first attempt i.e. should have passed the examination in first attempt i.e. should not have a reappear or compartment.” Photocopy of lower examination passed detail marks certificate may enclosed with the refund form.”

[8] Apparently, the respondents have treated the passing of the petitioner in the subject of service law on the basis of result of re-evaluation, as a contravention of eligibility criteria stipulated in Clause (vi), as referred to above. No doubt, the petitioner was initially shown to have got a re-appear in the service law subject in the 8th semester but the fact remains that the re-appear of the petitioner was on account of marking, which was not done correctly by the evaluator appointed by the University and on re-evaluation, as against 23 marks awarded initially to the petitioner, the petitioner was awarded 43 out of 80 marks.

[9] In case of re-evaluation, the result is to relate back to the examination, in which the petitioner initially appeared and the words used in clause (vi) as referred to above “*should have passed the examination in first attempt i.e. should have passed the examination in first attempt i.e. should not have a reappear or compartment.*” cannot be used to deny the benefit of free ship to the petitioner, since on re-evaluation, the petitioner has been shown to have been awarded almost double the marks, which were initially awarded to him. The position would have been otherwise had the petitioner not been awarded a pass in the subject on re-evaluation. In that situation, clause (vi) would have been applicable on account of the petitioner having a re-appear / compartment.

[10] In the light of the position as noted above, the writ petition is allowed. Impugned order, Annexure P/4 dated 17.07.2019 is set aside and the petitioner held entitled to the benefit of free-ship, subject to fulfillment of the other requirements stipulated under Clause (vi) of the rules at page No. 270 of the Handbook of Information Admission, 2018. Resultantly, the claim of the petitioner be considered and decided as per rule(s) applicable in the manner indicated above within a period of 04 weeks and if otherwise found entitled to, the benefit of fee concession be granted to the petitioner within a period of two weeks thereafter.

(B.S. Walia)
Judge

October 17, 2019
‘Rajneesh’

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