

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3282 of 2021**

- Sudip Kumar Ture, S/o Dr. Devendra Kumar Ture, Aged About 24 Years R/o- Near Sitla Mata Mandir School Chowk, District Dhamtari Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Health And Family Welfare Department Mantralaya, Mahanadi Bhawan, Atal Nagar (Naya Raipur) District Raipur Chhattisgarh
2. Pt. Deendayal Upadhyay Memorial Health Science And Ayush University, Through Its Registrar, Chhattisgarh, Raipur District Raipur Chhattisgarh
3. Controller Of Examination, Pt. Deendayal Upadhyay Memorial Health Science And Ayush University Of Chhattisgarh, Raipur District Raipur Chhattisgarh
4. Dean, Government Medical College, Jagdalpur, District - Jagdalpur Chhattisgarh

---- Respondents

For Petitioner : Shri Avijit Patnaik, Advocate with Ms. Akshara Amit, Advocate

For Respondents/State : Ms. Sameeksha Gupta, PL

For Respondents No.2 & 3 : Shri Ajay Kumar Dwivedi, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****01/09/2021**

1. Heard.
2. As per the petitioner, the petitioner who is the 2nd year student of M.B.B.S. Course, appeared in the examination in the subject of Forensic Medicine &

Toxicology in supplementary examination. The petitioner had attempted 37 marks of question out of 40 marks. Though according to the petitioner, the answers attempted by the petitioner in the question paper were correct but the marking in the answer-sheet was made in casual and callous manner and he was granted only 17 marks and was declared failed in the examination. It is further contended that the answers given by the petitioner if are compared with the answers given by the expert, then it would be correct. Consequently, the petitioner was entitled for more marks instead the lesser marks were given. Thereafter, he applied for revaluation but revaluation was refused on the ground that for supplementary examination no revaluation is allowed.

3. Learned counsel for the petitioner on the basis of the reply filed would submit that the ordinance on which the respondent has placed reliance would not be applicable as the petitioner has first time appeared for the supplementary examination and the revaluation is allowed to a candidate who has appeared for the first time in the paper, therefore, the supplementary examination should have been treated as the first examination of the petitioner. Consequently, the interpretation of the ordinance would give a way to grant relief to the petitioner.
4. Per contra, learned counsel for respondents No.2 & 3 would submit that the petitioner since appeared in the supplementary examination, therefore, as per the ordinance the petitioner was not entitled for revaluation as since he appeared in the supplementary examination, therefore, he is not eligible for revaluation in accordance with the ordinance No.2.
5. I have heard learned counsel for the parties and perused the documents.

6. Admittedly, the petitioner, who is a second year student, appeared in the examination in the subject of Forensic Medicine & Toxicology in supplementary examination in April, 2021. The petitioner got 17 marks out of 40 marks in this subject. The submission of the petitioner that the answers given by the petitioner are correct as per the different text books. This Court not being the expert will not be able to evaluate the same. It is a field of academic experts and this Court cannot step into the shoes of an academic expert of subject matter to evaluate the fact that the answers given by the petitioner are correct or not. It is for the expert body to decide.
7. Even in the facts & circumstances of the present case for revaluation, the ordinance No.2 which is filed herein would be relevant. The relevant part thereof is reproduced herein below:-

18(1) A candidate, who has appeared for the first time in all papers of all the subjects of an examination and whose result has been declared and is not satisfied with the valuation may apply to the Registrar in the prescribed form from university within 15 days from the date of the declaration of result.

(2) Where a candidate applies for revaluation of the answer book in which revaluation is sought will be sent for valuation by the Kulpati to two revaluers (other than the original examiner) from a place outside the state of Chhattisgarh.

Provided also that a candidate who has appeared either in part of an examination of either annual or supplementary examination in any of the subjects or paper as a backlog shall not be eligible to apply for revaluation, Provided also that no revaluation may be allowed in case of scripts of practicals, field-work, sessional work, internal assessment, internal tests, tutorials and project work and dissertation submitted in lieu of the paper at the examination.

Provided also that a candidate who has appeared in all the subjects at the Post Graduate/ Undergraduates examination shall not be eligible to apply for revaluation in more than two papers of two subject unless has secured at least 40% or 50% as the case or may be marks in each of the remaining subjects of concerned faculty exam.

Provided also that a candidate appearing at a examination as ATKT/second exam candidate shall not be eligible to apply for

reevaluation for his backlog subject/papers as the case may be.

8. The plain reading of the ordinance would show that the candidate who has appeared for the first time in all papers of all the subjects of an examination and whose result has been declared and is not satisfied with the valuation may apply to the Registrar for reevaluation, however, the proviso clause of it would show that a candidate who has appeared either in part of an examination of either annual or supplementary examination in any of the subjects or paper as a backlog shall not be eligible to apply for reevaluation. Admittedly, since the petitioner appeared in the supplementary examination, the right by the ordinance is not conferred to claim for reevaluation. Therefore, in view of distinct ordinance which exists and covers the field, it cannot be interpreted in the way that the petitioner claims that since he has appeared for the first time in the supplementary examination, therefore, the same may be treated as first time as if he has appeared in fresh examination and would be entitled for reevaluation. In view of this, no relief can be granted to the petitioner.

9. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu