

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

Sr. No.104+242

**CM Nos.18968 & 18969-CWP of 2022 in/and
Civil Writ Petition No.24275 of 2022
Date of Decision : December 01, 2022**

Saurav Markanda

...Petitioner

Versus

Panjab University and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Aashish Chopra, Senior Advocate with
Mr. Gagandeep Singh, Advocate, for the petitioner.

Mr. Akshay Kumar Goel, Advocate, for the respondents.

SUDHIR MITTAL, J. (ORAL)
CM-18968-CWP-2022

Allowed as prayed for.

Exemption sought is granted.

CM-18969-CWP-2022

Allowed as prayed for.

Annexures P-10 to P-13 are taken on record.

CWP-24275-2022

The petitioner is a student of the B.A. LL.B (Hons) (5 Years Integrated Course) in respondent No.2-University Institute of Legal Studies (hereinafter referred to as the UILS). Presently, he has completed the course but has failed in one subject in the 7th semester. In the subject of Law of Property, he scored 32 marks in the theory paper which was also his aggregate therein as he did not participate in the internal assessment. Thus, he took a re-appear examination in the theory paper in the year 2022 and scored 40 marks which became 41 on re-evaluation. The pass marks were

45 and since he was not awarded any score in the internal assessment, he still failed. Thus, the present writ petition has been filed with a prayer to permit him to re-appear in the theory part of the internal assessment i.e. mid semester test.

2. Detailed written statement has been filed on behalf of the respondents wherein the right to re-appear in the mid semester test has been denied. It has been averred that a student can only re-appear in the theory part of the examination but not in the mid semester test, the same being a part of the internal assessment. Reference has been made to the Rules Regulating Admission and Promotion to B.A./B.COM. LL.B. (Hons) 5 Years Integrated Course (1-10 semesters) (hereinafter referred to as the Rules).

3. While the matter was being heard, this Court thought it fit to question the University regarding grant of grace marks. Today, a copy of the University Calander has been handed over. Clause 28.1 thereof governs grant of grace marks. Sub-clause (a) thereof is the relevant provision and the same is reproduced below for ready reference.

“28.1 (a) A candidate who appears in all subjects of an examination and who fails in one or more subjects (written, practical, sessional or viva voce) and/or the aggregate (if there is a separate requirement of passing on the aggregate) shall be given grace marks up to maximum of 1 per cent of the total aggregate marks (excluding marks for internal assessment) to make up the deficiency, if by such addition the candidate can pass the examination. While awarding grace marks fraction

working to 1/2 or more will be rounded to a whole.

Provided that grace marks be also awarded to a candidate if by awarding such marks he can earn exemption or compartment in subject/s and part/s.”

4. The above provision makes it clear that a candidate, if he fails in one or more subjects, he is entitled to grant of maximum of 1% of total aggregate marks awardable. This is the interpretation which emerges from a plain reading of the language of the provision. Judgment of this Court dated 01.04.2015 passed in CWP No.4749 of 2015 ***Saksham Malhotra vs. Panjab University and others***, also holds so. Marks for internal assessment have however to be excluded from the total aggregate marks awardable.

5. Thus considered, in the 7th semester, the petitioner appeared in six subjects. Each subject consisted of a theory paper of 60 marks and internal assessment of 40 marks. The total aggregate marks awardable thus work out to 360, 1% of which is 3.6. Rounding off to the next whole number is provided for in the provision reproduced hereinabove and accordingly, the petitioner would be entitled to grant of 04 marks. He would thus make the cut in the subject.

6. For the foregoing reasons, the writ petition is allowed. The respondents are directed to grant the petitioner 04 grace marks and add the same to the marks already obtained by him in the theory paper of Law of Property. Result be declared thereafter.

December 01, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
Yes