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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on: 23.06.2023

+ **W.P.(C) 4357/2022 & CM APPL. 35594/2022**

DR. RANJAN AGRAWALA

..... Petitioner

Through: Mr. Aditya Nayyar and Mr. Tarang Agarwal, Advs

versus

UNIVERSITY OF DELHI AND ORS.

..... Respondents

Through: Mr. Mohinder JS Rupal and Mr. Vinay Malik, Advs. for UOD.

Mr. T. Singhdev, Mr. Abhijit Chakravarty, Ms. Michelle B. Das, Ms. Ramanpreet Kaur and Mr. Bhanu Gulati, Advs. for NMC/R-4.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The short questions involved in the present writ petition are (i) whether the petitioner, who after completing more than 02 years of the 03 years M.D. (Radiodiagnosis) course, left the same to join Indian Revenue Service (Income Tax) could be allowed to complete his MD course after the expiry of “span period” prescribed for completing the same, and (ii) whether the petitioner is entitled to the benefit of “centenary chance” offered by the University of Delhi (respondent no. 1) to all its students who could not complete their degree



within the “span period”, in terms of the notifications dated 28.04.2022 and 08.07.2022 issued by the University of Delhi (respondent no. 1).

2. The brief facts giving rise to the present writ petition are that the petitioner after successful completion of his MBBS course in January, 2012, appeared in All India Medical Examination for Post Graduate Medical Course (M.D. / M.S. / Diploma), which was then conducted under the aegis of AIIMS, New Delhi. The petitioner secured All India Rank of 145 in the said examination and vide letter dated 29.06.2012 was admitted to the 03 year M.D. (Radiodiagnosis) course at the University College of Medical Sciences, GTB Hospital, New Delhi (respondent no. 2). The petitioner joined the 03 year course of M.D. (Radiodiagnosis) programme with the respondent no. 2 after completing all requisite formalities.

3. While pursuing the M.D. (Radiodiagnosis) course with the respondent no. 2, the petitioner cleared the Civil Services (Main) Examination 2013 and on the basis of his All India Rank of 317, he was allowed a place in the Indian Revenue Services (Income Tax).

4. Since post selection, joining the training for a period of 16 months was a mandatory requirement at the Indian Revenue Service, the petitioner left the M.D. (Radiodiagnosis) course and went for training leaving the M.D. programme midway. The petitioner joined the mandatory training of Indian Revenue Service at the National Academy of Direct Taxes, Nagpur w.e.f. 22.12.2014.

5. The pleaded case of the petitioner in the writ petition is that even before joining the training, the petitioner requested the respondent no. 3, the Dean, Faculty of Medical Sciences, University of Delhi, to grant him permission to



join the Indian Revenue Service and to allow him to complete his final year at a later point in time. It is further pleaded by the petitioner that he was granted permission by the respondents.

6. It is also the case of the petitioner that being an employee of Central Government, the petitioner was duty bound to comply with the mandatory provisions envisaged under Central Civil Services (Leave) Rules, 1972, which proscribed availing of leave before completion of 5 years of regular continuous service (including the period of probation).

7. At this stage, it is apposite to refer to Ordinance 26 of the Postgraduate (Degree / Diploma) Post-Doctoral Courses Ordinance, 2011 [in short “Ordinance, 2011”] of the University of Delhi, which provides the “span period” for passing the degree and diploma examination and post graduate courses, and reads as under:-

“26. Span Period:

(i) Students admitted to MD/ MS / MDS courses should pass the degree examination within 5 years after registration to the course.

(ii) Students admhitted to the M.Ch. and D.M. courses should pass the examinations within 5 years from the date of registration to the course.

(iii) Students admitted for diploma courses shall pass the examination within 4 years from the date of registration to the course. Similar rules will apply for 2 years MD / MS course where the student had obtained diploma at the time of registration.

(iv) Salary in lieu of the training period will only be payable for the regular duration.



EXPLANATION: If a student leaves after submission of thesis and wants to continue study during the span period he/ she will not be entitled for salary.”

8. The other relevant ordinances of the Ordinance, 2011 read as under:

9.1

No vacation is permitted to any Postgraduate (PG) Degree (MD/MS), Diploma, or Post-Doctoral (DM / M.Ch) Course student.

9.6

In case a student takes more leave than the prescribed leave, or remains absent from training without proper permission, he/she shall not be allowed to appear in the university examination until he/she completes the shortage of training, which may have occurred due to extra leave/ unauthorized absence, by undergoing further training beyond the normal duration of the course. The student will not be entitled for any pay for this training period. Extra duties undertaken during the normal duration of the course would not compensate the shortage of training.

14.2

All candidates joining the Postgraduate training programme shall work as ‘full time Residents’ during the period of training and shall attend not less than 80% (Eighty percent) of the imparted training during each academic year including assignments, assessed full time responsibilities and participation in all facets of the education process. Eligibility for examination will be as per rule laid down in Clause 9.7.

15.1

The examinations shall be organized on the basis of marking system to evaluate and certify candidate's level of knowledge, skill, and competence at the end of the training. The examination for M.S., M.D., MDS, D.M. M.Ch. shall be held at



*the end of 3 academic years (six academic terms) and for diploma at the end of 2 academic years (four academic terms).
An academic term shall mean six months training period.*

9. The petitioner was admitted in the M.D. (Radiodiagnosis) course in the University College of Medical Sciences in the year 2012. The Bulletin of Information [Post - Graduate (degree / diploma) & MDS Courses], Session 2012 provided for certain restrictions and the timeline in regard to the PG Degree / Diploma courses. The relevant provisions of the said bulletin of information reads as under:-

“Clause 9.9 (iii)”

The student shall have to pay the Bond Money of Rs. 5 lacs to the Institution / University in the following circumstances:

(b) If the student leaves the course before its completion.

Clause 15.1

The Post Graduate (Degree/Diploma) and MDS Courses are full time courses. No candidate shall be allowed to apply for/to join any other course or any post either in India or abroad, once he/she has been admitted in the course is completed.

The candidate should complete the course as per the norms of the Delhi University within stipulated period.

Clause 16.1

Students admitted to MD/MS/MDS courses should pass the degree examination within 5 years after registration to the course.”

10. It is to be noticed that the Postgraduate Medical Education Regulation, 2000 [Regulation, 2000] made by the Medical Council of India in exercise of the power conferred by Section 33 read with Section 20 of the Indian Medical



Council Act, 1956 continues to be in force even after repeal of the said Act, by virtue of Section 61 of the National Medical Commission Act, 2019. The regulations of Regulation, 2000 which are relevant for the purpose of the present case, read as under:

“Regulation 10(1)

The period of training for obtaining these Degrees shall be three completed years including the examination period.

Regulation 13.2

All the candidates joining the Post Graduate training programme shall work as ‘Full Time Residents’ during the period of training and shall attend not less than 80% (Eighty percent) of the imparted training during each academic year including assignments, assessed full time responsibilities and participation in all facets of the educational process.”

11. Also to be noticed, that the petitioner completed 05 (five) years of continuous service (including the period of probation) with the Department of Income Tax, Government of India, on 22.12.2019, but the present writ petition was filed by the petitioner on or about 10.03.2022. In the writ petition initially filed, the petitioner prayed as under:

“a. issue a writ of mandamus and/or certiorari and/or any other appropriate writ/order/direction in the nature thereof, holding the actions and decision of the Respondents in not allowing the Petitioner to complete his remaining M.D. (Radiodiagnosis) course with the Respondent No. 2 and sit for final examination as bad in law and consequently, setting aside/quashing any other direction(s)/ decision(s) issued by the Respondents jointly and/or severally) in respect thereto;

b. issue a writ of mandamus and /or any other appropriate writ/order/ direction in the nature thereof directing the



Respondents to allow the Petitioner to complete his remaining course of M.D. (Radiodiagnosis) with the Respondent No. 2 and sit for final examination, without any delay”

12. Post filing of the writ petition, on 28.04.2022, the respondent no. 1 / University issued a notification whereby the respondent no. 1 offered all its students, who were unable to complete their degree within the stipulated “span period”, a special chance to complete their degree by appearing in the examinations, which were to be conducted twice in the centenary year of the University, commencing from 01.05.2022 and concluding on 01.05.2023. The text of the said notification dated 28.04.2022, reads as under:-

*“No. Acad.I/Centenary Chance/2022/558
Dated: 28.04.2022*

NOTIFICATION

In accordance with the Executive Council Resolution No. 58 dated 28.01.2022. the Ex-Students of final year who could not complete their degree within the span period, are given an opportunity to complete their degree by appearing in the examinations, to be conducted twice in the Centenary year of the University, commencing from 01.05.2022 and concluding on 01.05.2023. Following are the guidelines for appearing in the examinations to be conducted during the Centenary year.

1. *The Undergraduate and Postgraduate students who have completed their course work and statutory requirement prescribed for completion of the course and have Essential Repeat (ER) / failed as per the final year marksheet (ER can be in any semester / year) shall be considered for this Centenary chance.*
2. *The students pursuing Professional Courses, who have completed their course work and statutory requirement prescribed for completion of the course and have Essential Repeat (ER) / failed as per the final year*



marksheet (ER can be in any semester / year), shall be considered for this Centenary chance, subject to permissibility of their Regulatory Body governing the respective professional courses.

3. *Students can appear for maximum upto 04 (four) papers for Annual Mode and upto 08 (eight) Papers for Semester scheme.*

4. *The Scheme of Examinations:*

a. The Scheme of Examination shall be as prevalent / applicable at the time of admission in the course.

b. The Centenary Chance shall be conducted only for Theory and Practical Examination, not for Internal Assessment.

The Examination shall be conducted tentatively during the month of October-2022 and March-2023 and it shall be conducted through physical mode only.

5. *The students while applying for Centenary Chance are required to provide details / documents as required. Failing to provide the details / documents, as required, may lead to non-consideration of his / her candidature in the Centenary Chance examination. Further, it will entail no right for the students to claim any relief in any forum on this count.*

6. *Examination fee for the Centenary chance examination shall be Rs. 2000/- per paper.*

7. *The portal will be opened for registration of the interested students for the students with effect from 01.05.2022.*

8. *M.Phil and Ph.D. students shall not be considered for this Centenary chance.*

This is issued with the approval of the Competent Authority.”

13. Subsequently, on 01.05.2022, the respondent no. 1 issued another notification bearing no. EXAM.VII/2022/33, wherein all ex-students (Regular, NCWEB, SOL & External Cell) of the final year of



undergraduate/postgraduate/professional courses, who wished to avail the Centenary chance, were asked to register on or before 14.06.2022 by using the online student portal link being (<http://durslt.du.ac.in/DuExamFormCT100/StudentPortal/Login.aspx>).

14. It is the case of the petitioner that when he visited the said online student portal link to register for the Centenary chance, he discovered that his college i.e., the University College of Medical Sciences (Respondent No. 2 herein) was not included for registration in the list of colleges on the online student portal link. Thus, the Petitioner was unable to avail the benefit of the “centenary chance”.

15. It is further the case of the petitioner that he filed an RTI application with the Respondent No. 1 seeking a response as to why students enrolled in the M.D. courses have been excluded from the ambit of the “centenary chance” provided vide notification dated 28.04.2022. Yet another representation was made by the petitioner on 18.05.2022. As no response was received by the petitioner from the respondent no. 1, the petitioner was constrained to file CM APPLN. 24798/2022 seeking the following ad-interim reliefs:-

“A. provisionally allow the Petitioner to register for the Centenary chance being provided by the Respondent No. 1 vide Notifications dated 28.04.2022 and 01.05.2022;

B. provisionally allow the Petitioner to sit for final examinations during the pendency of the accompanying Writ Petition; and

C. pass any other order as this Hon'ble Court deem fit in the interest of justice, equity and good conscience.”



16. The aforesaid application seeking ad-interim reliefs was dismissed by this court vide order dated 30.05.2022 observing that prima facie the petitioner is not found to be eligible.

17. On 08.07.2022, the respondent no. 1 issued a fresh notification bearing no. Exam. VII/2022/49 in continuation of the earlier Notification dated 28.04.2022, which stated that the benefit of the “centenary chance” would also be given to all ex-students of post-graduate courses who have completed their study upto 3rd semester (PG) and 5th and 7th semester (UG) examination. The relevant extract of the said Notification reads as under:-

“In continuation of earlier Notification dated 24th June, 2022, all the concerned Ex-students (Regular, NCWEB, SOL % External Cell) of final year of Under-Graduate/Post Graduate/ Professional Courses who have completed their study upto 3rd Semester (PG) and 5th & 7th Semester (UG) Examination and have the marksheet of till 3rd/5th/7th Semester accordingly and were not appeared for 4th Semester (PG) and 6th & 8th Semester (UG) Examination are hereby informed that they are also eligible for Centenary Chance Special Examination 2022.”

18. It is also the case of the petitioner that when he attempted to apply for the “centenary chance” once again on the official website of the Respondent No. 1, he discovered that while the Respondent No. 2 college, i.e., the University College of Medical Sciences was now reflecting in the list of colleges, however, the Petitioner's course i.e., MD. (Radiodiagnosis) was not reflecting in the drop-down list for the purposes of registration. Thus, the Petitioner could not apply for the “centenary chance”.

19. In the backdrop of the aforesaid subsequent events, the petitioner vide application bearing CM APPLN. 42413/2022 sought to amend the writ petition. Vide order dated 26.09.2022, CM APPLN. 42413/2022 seeking



amendment of the writ petition was allowed and the amended writ petition was taken on record.

20. Pursuant to the amendment, the following two prayers were added to the original prayer clause of the writ petition:-

“c. issue a writ of mandamus and/or any other appropriate writ/order/direction in the nature thereof directing the Respondent No. 1 to allow the Petitioner to register for the centenary chance and sit for final examination, in view of the Notifications dated 28.04.2022, 01.05.2022 and 08.07.2022 issued by the Respondent No. 1;

d. in the alternative, if this Hon'ble Court comes to the conclusion that the Petitioner is not included in the Impugned Notification and the Impugned Notification is restricted to only semester based courses, then the Impugned Notification be read-down to the extent it does not allow the Petitioner to take benefit of the centenary chance and accordingly pass an order directing the Respondent No. 1 to allow the Petitioner to sit for the final examination”

21. Furthermore, it is the case of the petitioner that through media reports, the petitioner learnt that the respondent no. 1 has granted the “centenary chance” to various final year ex-students, who akin to the petitioner, had not completed the course work and had also not appeared for the final examinations.

22. The respondent no. 1 / University of Delhi and the respondent no. 4 / National Medical Commission, filed their respective reply / counter affidavits pleading, *inter-alia*, that – (i) the petitioner under no circumstances could leave the course midway; (ii) even when the petitioner was pursuing the post graduate medical course, the petitioner had taken a total of 272 leaves / absent as against a total of 102 leaves which were allowed during the 3 academic year



of training, therefore, the petitioner cannot be treated to have undergone any regular training in the specialised professional medical course. Not having completed the stipulated training period, the petitioner was ineligible to be considered under the “centenary chance”.

23. Besides that, it has been pleaded that the petitioner has not even completed his course within “span period” i.e. till the year 2017, therefore, for this reason also the petitioner could not be allowed to register himself under the “centenary chance” as he is not eligible to get the benefit under the same.

Submissions

24. The learned counsel for the petitioner submits that the petitioner could not complete his 03 year course of M.D. (Radiodiagnosis) as, after his selection in the India Revenue Service, Income Tax Department, he was required to mandatorily join the Department with immediate effect and as per the Civil Service (Leave) Rules, 1972 he could not have availed the study leave prior to rendering 5 years’ of regular continuous service (including the period of probation).

25. He further submits that the Post-graduate Medical Education Regulations 2000 do not stipulate / provide for any “span period” at all and only stipulate that the period to complete M.D. course from any University would be 03 years including the period of examination.

26. Elaborating further, he submits that the MCI/Central Government has not specified any maximum period or “span period” for completion of the M.D. course but the respondent no. 1 / University, while framing the ordinance, in Clause 26 thereof, stipulated the “span period” to be a period of 5



years. He, therefore, contends that the “span period” prescribed by the ordinance of the University cannot be applied when the Regulations of 2000 have not placed any limitations on the maximum period within which a candidate could complete the M.D. course. He placed reliance on the decision of this court in *Amandeep Singh v. University of Delhi and Ors.* reported at MANU/DE/2194/2015, and in *Vipin v. University of Delhi and Ors.* reported at MANU/DE/0361/2021.

27. In view of the above, it has been urged by the learned counsel for the petitioner that a liberal approach ought to be adopted and another opportunity be afforded to the petitioner to complete his M.D. course and he ought not to be debarred only because the “span period” prescribed by the respondent no. 1 for the M.D. course has expired.

28. He further submits that the Delhi University Act, 1922 and the ordinances issued thereunder prescribe for a “span period” whereas from the year 1975 till 2017, the respondent no. 1 University was following a practice of allowing a special chance to the students who were unable to complete the course / programme within the “span period” on case to case basis and it is only vide a notification issued in the year 2017 that the respondent no. 1 informed that no applications for grant of special chance beyond the stipulated “span period” could be entertained. He submits that the notification of 2017 cannot be made applicable retrospectively so as to deprive the petitioner of the benefit of special chance when he had taken admission in the M.D. course prior to the said notification i.e. on 02.07.2012. He relies on the decision of *Vikas Bhaskar and Ors. V. University of Delhi and Ors.* reported at 2018 (170) DRJ 150.



29. Inviting the attention of the court to the media reports annexed as Annexure P-24 (colly), he contends that the action of the respondent no. 1 University in depriving the petitioner from an opportunity to complete his degree whilst similarly placed students have been granted the benefit of the “centenary chance”, is discriminatory. He relies on the decision of *Neera Gupta vs. University of Delhi*, (1996) 63 DLT 458.

30. He further contends that the impugned notification is violative of Article 14 of the Constitution being arbitrary and suffering from unreasonable classification, in as much as, it extends the benefit only to students who were enrolled in semester-based courses and does not allow the petitioner, who was pursuing M.D. course, to take benefit of “centenary chance”. He submits that there is complete absence of any intelligible differentia to distinguish former students pursuing M.D. course from those pursuing other courses and that such distinction has no nexus with the object sought to be achieved, especially when the notification is beneficially seeking to afford a chance to those students who could not complete their degrees because of various impediments, in order to boost their future prospects.

31. *Per contra*, Mr Mohinder J.S. Rupal, the learned counsel for the respondent no. 1 / University submits that the “centenary chance” is only for those students who have completed their course and the statutory requirement prescribed for completion of course and have Essential Repeat (ER) / failed as per the final marksheet, but the petitioner has not completed his course within “span period” and therefore, he cannot be extended the benefit of “centenary chance”. He further submits that the petitioner had furnished a bond that in the event of his discontinuation of M.D. course before its completion, he shall be



liable to pay the bond money of Rs. 5,00,000/-, which the petitioner is clearly liable for, having discontinued the M.D. course in the midway.

32. Inviting the attention of the Court to the clause of the Bulletin of Information for the Session 2012, he submits that the petitioner was obliged to complete the course as per the norms [Ordinance 26] of Delhi University within stipulated period of 5 years after registration to the course and could not have joined any other course or any post either in India or abroad, till the course was completed. He further submits that the petitioner is not eligible to be considered under the “centenary chance” as he failed to complete the stipulated training period. He contends that the petitioner has also not been regular during 3 academic years of training, in as much as, he took 272 leaves in little more than two years as against total entitlement of 102 leaves during the course period of 3 years. He also contends that the request of the petitioner to complete the M.D. (Radiodiagnosis) course post December, 2019 was considered in the meeting of PGAC (Post Graduate Admission Committee) held on 23.02.2018 in terms of Ordinance 26 of the PG (MD/MS) Ordinance 2011 of the respondent No. 1 / University and said the request was not acceded to.

33. He further submits that the notification dated 08.07.2022, relied upon by the petitioner, is applicable only to those students who have been admitted for their studies in the semester system, whereas, the petitioner’s course is regulated as per Clause 10(1) of Post Graduate Medical Education and Regulations, 2000 which provides that the period of training for obtaining PG Degree shall be 03 years including the period of examination. He further contends that the petitioner is not entitled to the benefit of notification dated



08.07.2022 as the petitioner had not completed the stipulated training period as per the statutory requirement.

34. He also submits that the petitioner cannot rely upon the media reports and that no ex-students have been allowed to complete their studies after the expiry of the “span period”.

35. Mr. T. Singhdev, the learned counsel appearing on behalf of the respondent no. 4, besides supporting the submissions made by the learned counsel for the respondent no. 1 / University, referred to the Post-Graduate Medical Education Regulations, 2000 to submit that a student of post graduate course is obliged to attend at least 80 per cent of the imparted training during each academic session including assignment. He further submits that a student who does not comply with the said requirement is not permitted to appear in the examinations towards the award of the post graduate degree.

36. He also contends that the petitioner had completed 5 years of service on 22.12.2019 and admittedly, he was eligible to avail said leave thereafter but the petitioner for the reasons best known to him, has chosen to file the present writ petition only in the March, 2022. He thus, submits that the writ petition suffers from delay and latches.

37. He further submits that a writ of mandamus can be issued for an enforceable right and the petitioner has failed to show that he has any statutory right or right under the “centenary chance” to complete the course beyond the “span period”.

38. He also urges that no mandamus can be issued to any academic body to not follow its own rules and regulations.



Analysis and Findings

39. I have heard the learned counsels for the parties and have also perused the record.

40. Ordinance 26 of the Ordinance 2011 of the university provides for “span period” regarding the M.D. Course. It clearly stipulates that students admitted to M.D./M.S./MDS courses must pass the degree examination within 05 years after registration to the course. Also, in terms of Clause 16.1 of the Bulletin of Information, the petitioner was obliged to pass the degree examination of his M.D. course within 05 years after registration.

41. The duration to complete the course/programme cannot be open ended. There is always an outer limit for completing the same which is referred to as the ‘span period’. The issue whether a student can claim any right for relaxation of the span period when the rules of the University provide otherwise, was a subject matter of the debate in **Amit Kumar vs. Delhi University & Anr. (DB): 2014 SCC OnLine Del 6577**. It was held that the students cannot said to have any right to complete the course/programme to which they have sought admission, in whatever time they may deem proper. The relevant extract of the judgment reads thus:

“15. At the outset we may state that the students cannot be said to have any right to complete the course / programme to which they have sought admission, in whatever time they may deem proper, particularly when the rules of the University provide otherwise. The students having taken admission to a University, are governed by the rules and regulations thereof. They even otherwise have no right to claim that there should be no span period for completing an educational course / programme or as to what the said time period should be or whether there should be any provision of relaxation therein or not. No such right was



argued by any of the counsels inspite of our specifically posing the said query. On the contrary the Universities are found to be fully empowered to lay down such span period and/or to determine whether any relaxation with respect thereto is to be given or not. The appellants/petitioner in fact have not even challenged the right of the University to so lay down the span period. The validity/vires of the Appendix II to the Ordinances of the University of Delhi or the Ordinance 15(xv) of the Jamia Millia Islamia University, both laying down the span period, is not even challenged.

16. It cannot also be lost sight of that the span period is the outer limit for completing the educational course / programme and is generally found to be double the duration otherwise prescribed for the course / programme. The relaxation /exemption which is being sought is thus found to be inbuilt in the span period. The arguments thus urged, of the rule/regulation of span period being harsh, are of no avail. The counsels, inspite of our asking were unable to cite and we have also not been able to find any principle of law which mandates making a provision for relaxation of a rule.

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25. On the other hand, we are also mindful of the extreme paucity of educational institutions in the country. In the absence of any span period, students may indefinitely block seats, other facilities and amenities in the educational institutions to the prejudice of those becoming eligible for admission in succeeding years. Allowing an educational course/programme to be completed at any time, without any limitation, may also pose a problem where say the course content has changed. Also, there is generally continuity in the syllabus/curriculum in successive semesters/years of an educational course/programme and a long break may interfere therewith, impacting the course/programme.”



42. Again, in *Awadhesh Kumar vs. Delhi University and Anr.*: LPA No.258/2016 decided on 26.09.2016, a Division Bench of this Court relying upon the decision of *Amit Kumar* (*supra*) upheld the action of the respondent university in declining to grant exemption from the span period. The relevant extract of the decision reads as under:-

“.....

2. *The appellant/writ petitioner who could not complete the LL.B Course during the regular course and even during the prescribed span period filed the said writ petition seeking a direction to the respondents/Delhi University to allow him to complete his LL.B. course by appearing in the back papers even beyond the span period....*

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4. *Having bestowed our attention to the controversy involved, we entirely agree with the conclusion of the learned Single Judge that the impugned action of the respondents in declining to grant relaxation of the span period cannot be held to be erroneous on any ground whatsoever.*

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7. *Admittedly, the appellant/writ petitioner who joined the LL.B. course in the Academic Year 2008-09 and was expected to complete the course by 2013-14, failed to do so and could not complete the course even within the stipulated span period of 2 years. Therefore, the action of the respondents in declining to grant exemption from the span period cannot be held to be illegal in the light of the ratio laid down by judgment dated 27.11.2014 in the batch of appeals being LPA No.956/2013 titled Amit Kumar Vs. Delhi University & Anr. and batch.*

8. *The appeal is, therefore, devoid of merit and the same is accordingly dismissed.”*



43. Clearly, the span period cannot be relaxed by the courts unless there is a provision providing for the same. No such provision has been pleaded or pointed out by the petitioner. As held by this Court in **Amit Kumar (supra)**, relaxation / exemption is rather inbuilt in the span period, for the reason that the span period is generally double the duration otherwise prescribed for the course. This being the position, the petitioner could not claim any right to complete the MD course beyond the prescribed span period, in the absence of any provision to relax the same.

44. However, during the pendency of the writ petition, the respondent-university relaxed the condition of 'span period' by issuing notifications dated 28.04.2022 and 08.07.2022, whereby it granted its ex-students a chance in the centenary year of the university to complete their degree who could not do so within the span period. With an intent to avail the benefit of centenary chance, the petitioner amended the writ petition and claimed relief in terms of the aforesaid notifications.

45. In so far as the centenary chance provided to the ex-students pursuing Professional Courses is concerned, it is required to be noticed that in terms of notification dated 28.04.2022 such a chance could be availed only by those ex-students who could not complete their degree within the span period but had completed their course work and statutory requirement prescribed for completion of the course and were having essential Repeat/failed as per the final year marksheets. Further, availing of the centenary chance was subject to permissibility of the Regulatory Body governing the professional course. It goes without saying that the conditions mentioned in the notification dated 28.04.2022 have to be read into subsequent notification dated 08.07.2022,



which was in continuation of the previous notifications. In fact, the subsequent notification dated 08.07.2022 only expanded the scope of the earlier notification dated 28.04.2022 and made the centenary chance available additionally to the ex-students of semester based courses.

46. Accordingly, the petitioner's claim for centenary chance has to be tested on the anvil of various statutory requirements prescribed for completion of MD course.

47. Under Regulation 10(1) of the Post-Graduate Medical Regulations, 2000 the period of training for obtaining the degree in M.D. (Radiodiagnosis) is 03 completed years including the period of examination. Regulation 13.2 further provides that all candidates are required – (i) to work as 'Full Time Residents' during the 03 years training period; and (ii) and they must attend not less than 80 per cent of the imparted training during each academic year including assignments, assessed full time responsibilities and participation in all facets of the educational process.

48. It is petitioner's own case that he took admission in 03 years M.D. (Radiodiagnosis) course at respondent no. 2 college on 02.07.2012 and left the course midway after completing training of little more than 02 years. Admittedly, the petitioner did not complete his training/course work of 03 years nor worked as 'Full Time Resident' during the 03 years training period, as mandated by Regulation 13.2 of the Regulations.

That apart, the respondent no. 1 / University has categorically stated in its counter affidavit that the petitioner while pursuing the said Post-Graduate Medical course, had taken a total of 272 leaves/absent during the period of little more than 02 years as against a total of 102 leaves admissible during 03



academic years of training. This fact has been refuted by the petitioner in his rejoinder but at the same time it has been admitted by him that he does not have any record of his attendance. Therefore, there is no reason to disbelieve the statement made by the respondent no.1 on affidavit in respect of petitioner's attendance, especially regard being had to the fact that during the period the petitioner was undergoing the MD course, he was simultaneously preparing for the Civil Services Examination. It is also not the positive case of the petitioner that he completed 80 percent of the imparted training during each academic year. On the contrary, its petitioner's own case that he partially completed third year's course. On the basis of above discussion, the petitioner cannot be treated to have undergone regular training or attended the statutorily required 80 per cent of the imparted training during each academic year.

49. Similar requirement has been prescribed by the Post-Graduate (Decree Diploma) Post-Doctoral Courses Ordinance 2011 of the University of Delhi. In terms of Ordinance 9.6, a student is not allowed to appear in the University examination in case he takes more leave than the prescribed leave, or remain absent from training without proper permission, unless he makes up for the said deficiency, by undergoing further training beyond the normal duration of the course. In the petitioner's case, the question of making up of deficiency does not arise as he left the course midway and never returned to complete the training within the span period of 05 years.

50. Further, in terms of Clause 15.5 of the Bulletin of Information the petitioner was not permitted to apply for/to join any other course or any post either in India or abroad till the completion of his course. Needless to say, the conditions stipulated in the prospectus/Bulletin of Information are guidelines



for all concerned and everyone is required to follow the same in letter and spirit and not act in transgression.¹

51. Plainly, the petitioner did not complete his mandatory training of 03 years nor worked as 'Full Time Resident' during the period of training of 03 years. Also, it is not a case where the petitioner was having essential Repeat/failed as per the final year marksheet. In fact, in the petitioner's case the stage of appearing in the final exam after completion of 03 years training did not reach as the petitioner had quit the course midway. This being the position, the petitioner was not fulfilling the requisite criteria for availing the centenary chance.

52. Furthermore, availing of the centenary chance was subject to permissibility of the Regulatory Body governing the professional course, which in the case of petitioner's course is National Medical Commission. Incidentally, the case of the petitioner to seek a special chance to appear in the Centenary Special Chance Examination to complete his M.D. (Radiodiagnosis) Degree was also considered by the committee constituted by the Dean, Faculty of Medical Sciences regarding "Centenary Chance for Special Examination" in its meeting held on 23.08.2022. The committee after a detailed discussion and having regard to the clarification given by the National Medical Commission that centenary chance could be availed subject to adherence to all the provisions of Regulations 2000, recommended that the petitioner is not eligible to appear in the Centenary Special Chance Examination. The relevant part of the minutes of meeting read as under:

¹ Varun Kumar Aggarwal vs. Union of India & Ors., 179 (2011) DLT 24 (DB)



“As Dr. Ranjan Agarwala has not completed his prescribed course/training and the National Medical Commission (NMC) has specifically clarified that Centenary Special Chance Examination can be availed subject to adherence to all the provisions of Post Graduate Medical Education Regulation, 2000, the Committee recommended that he is not eligible to appear in the Centenary Special Chance Examination.”

53. At this stage it is apposite to note that the Postgraduate Regulation Medical Education Regulation 2000 is binding and mandatory and is not advisory in nature. The universities have to be guided by the standards prescribed by the National Medical Commission (NMC) [erstwhile Medical Council of India (MCI)] and the universities do not have option to follow or not to follow the standards laid down by the NMC/MCI.² In this view of the matter, the respondent-University was justified in not permitting the petitioner to avail centenary chance examination, as he was not fulfilling the statutory criteria prescribed under the Regulation, 2000.

54. The upshot of the above discussion is that the petitioner has failed to demonstrate an enforceable statutory right for relaxing the span period or right to take centenary chance examination under the notifications of the respondent-university. Therefore, the writ of mandamus as sought by the petitioner cannot be issued. It is also trite law that, this court in exercise of jurisdiction under Article 226 of the Constitution cannot issue directions contrary to the laws, rules, regulations and the bulletin of information.

55. At this juncture the submissions made by the petitioner also needs to be adverted to. It is the pleaded case of the petitioner that he was granted

² Dr. Preeti Srivastava Vs. State of M.P & Ors. : (1999) 7 SCC 120



permission by the respondents to complete his final year at a later point in time. In support of this pleading, the petitioner has placed reliance on Annexure P-8, which is a request letter addressed to the respondent no.3. A perusal of Annexure P-8 shows that not only it is undated, but does not even reveal the mode by which it was dispatched by the petitioner. Further, there is nothing placed on record to show that the petitioner was granted permission by the respondents to complete his final year at a later point in time. Therefore, the plea of petitioner is factually incorrect and thus, devoid of merit.

56. To justify non-completion of course within the span period, the petitioner has contended that he could not have availed study leave prior to rendering 05 years regular continuous service. This contention is also without substance, inasmuch as, the petitioner himself left the M.D. course midway to join Indian Revenue Service without completing the requisite training and despite the Bulletin of Information proscribing joining any other course or post before completion of the MD course. The petitioner having consciously chosen Indian Revenue Services over M.D. course defying all statutory norms, cannot be permitted to complete the course beyond the span period. Rather, petitioner's iniquitous quest for greener pastures has, in the bargain, led to one MD course seat being wasted.

57. Similarly, there is no merit in the submission of the learned counsel for the petitioner that the Post Graduate Medical Education Regulations, 2000 do not provide for any span period and only stipulate that the period to complete M.D. course from any University would be 03 years including the period of examination, therefore, the span period, as prescribed by the Ordinance of the University cannot be applied to the petitioner. Suffice it to note that no



challenge has been laid by the petitioner, to the Ordinance 26 of the University providing for the span period, or to the competence of the University to provide for such span period, nor it has been pointed out that 05 years span period is contrary to any statutory provision or regulation. In the absence of such challenge, the petitioner cannot question the span period prescribed by the University by its Ordinance 26. As noted above, providing of span period for a course has been held to be justified by the Courts. It is also trite law that State Governments/Universities are well within their rights to prescribe standards higher or in addition to those prescribed by the statutory/regulatory body.³

58. Another argument advanced by the petitioner is that from the year 1975 till 2017, the University was following the practice of allowing a special chance to the students who were unable to complete the course/programme within the span period on case-to-case basis, and such a practise was discontinued only vide notification issued in the year 2017 but the said notification cannot be made applicable retrospectively so as to deprive the petitioner of the benefit of special chance when he had taken admission in the M.D. course prior to the said notification i.e. on 02.07.2012. However, I do not think that this argument can be sustained in any manner, and I say this for two reasons. Firstly, it is to be noted that the alleged notification of 2017 has not been placed on record by the petitioner. Secondly, in case Ordinance 26 has not been adhered to in the past, that cannot be a ground for the petitioner to claim negative equality, for equality is a positive concept. The reliance placed by the petitioner on the decision in *Vikas Bhaskar (supra)* in support of this contention, is also misplaced. Rather, para 32 from the decision of *Amit*

³ *State of Tamil Nadu & Anr. vs. S. V. Bratheep & Ors.*: (2004) 4 SCC 513



Kumar (supra) which deals with similar argument can advantageously be referred to:

“32. As far as the argument of the counsel for the appellants, of the Universities themselves having in the past allowed persons to appear in the examination beyond span period, is concerned, the same cannot be a ground. If the rules of the University do not allow so, merely because the University itself in the past has acted contrary to the rules would be no ground to grant relief, effectively directing the University to again act contrary to the rules. The principles of negative equality being not envisaged in Article 14 of the Constitution of India (see Union of India Vs. M.K. Sarkar (2010) 2 SCC 59) and the Court in exercise of jurisdiction under Article 226 being not entitled to direct something to be done in contravention of laws, rules and regulations, negate the said argument.”

59. The contention of the petitioner that similarly placed students have been granted the benefit of centenary chance after the expiry of span period, is also devoid of merit. This contention of the petitioner is predicated on media reports and such reports cannot be made basis for the grant of relief especially when the respondent/University has specifically refuted the assertion made by the petitioner in this regard and has categorically stated that no student has been permitted to avail centenary chance after the expiry of span period. The petitioner has failed to place on record the details and other material pertaining to the alleged similarly situated students to substantiate the above contention. In this view of the matter, no case of discrimination has been made out by the petitioner nor the decision in **Neera Gupta (supra)** relied upon by him will enure to his benefit.

60. The last argument advanced by the petitioner is that the impugned notification dated 08.07.2022 suffers from unreasonable classification as it



extends the benefit only to students who were enrolled in semester-based courses and does not allow the petitioner, who was pursuing M.D. course, to take the benefit of centenary chance, is also misconceived. A perusal of the notification dated 08.07.2022 and the expression “*they are also eligible*” used therein shows that the benefit of centenary chance was not confined to the ex-students of semester-based courses, rather by way of said notification, it was extended additionally to the students of semester-based courses apart from other courses. That apart, the petitioner was denied benefit of the centenary chance not for the reason that the MD course was not a semester-based course but on the ground that the petitioner had not completed the statutory training period of 03 years and other statutory requirements prescribed for completion of the MD course, as noted above.

61. Another aspect that cannot be overlooked is that it is petitioner’s own case is that he became eligible to avail study leave only after having completed 05 years of service. Admittedly, the petitioner completed 05 years of service on 22.12.2019, but the writ petition has been filed belatedly in March, 2022 without giving any justification for the inordinate delay. Therefore, the writ petition is hit by delay and laches.

62. In so far as the decisions in *Amandeep Singh (supra)* and *Vipin (supra)* relied upon by the petitioner are concerned, the same are distinguishable on facts and are not applicable to the fact situation obtaining in the present case, therefore, the petitioner cannot take advantage of the same.

63. *Amandeep Singh (supra)* was a decision of the learned Single Judge, in which span period was relaxed in case of LL.B course to allow the petitioner to complete the course, considering the fact that the petitioner therein could not



take the exam as he had joined Army to serve and nation in the year 2005 though he still had time till 2008 to complete his education. The decision was rendered in the facts of that case and does not lay down a binding ratio. In fact, the decision of Division Bench of this Court in *Amit Kumar (supra)* is a binding precedent on the point that the students cannot be said to have any right to complete the course / programme to which they have sought admission, in whatever time they may deem proper, particularly when the rules of the University provide otherwise. As noted above, *Amit Kumar (supra)* was also followed by another Division Bench of this Court in *Awadhesh Kumar (supra)*. Incidentally, in *Awadhesh Kumar (supra)* the course involved was LL.B. as in the case of *Amandeep Singh (supra)*.

64. In *Vipin (supra)* only reason which prevented the petitioner therein from availing of his last opportunity to take the LL.M examination was the University's action in advancing the date of examination, that too without any personal communication to the candidates who had registered to appear in the examination. In this factual backdrop, a Coordinate Bench of this Court found it to be unreasonable to deny a candidate the opportunity to complete his degree and obtain the qualification, only on the premise that the span period has lapsed, which is not the situation in the present case.

65. Before parting with the case, it is also apt to note the following word of caution rendered by the Hon'ble Supreme Court in *MCI Vs. State of Karnataka, (1998) 6 SCC 131*, to emphasize that half-baked medical professionals are not conducive to the health care system of the country and also to underline the need for gruelling study and training which medical professionals should undergo. The said observation is equally relevant in the



context of the present case where the petitioner is seeking to take Centenary Chance Examination without having completed training or worked as Full Time Resident:

“29. A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study.”

[emphasis supplied]

66. In view of the above discussion, there is no merit in the case of the petitioner. Accordingly, the writ petition along with pending applications, if any, is dismissed.

JUNE 23, 2023
N.S. ASWAL

VIKAS MAHAJAN, J