



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-15396-2019(O&M)
Date of Decision:01.10.2024

Ankit Boora

.....Petitioner

Versus

Kurukshetra University Kurukshetra and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Prateek Mahajan, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned order/letter dated 24.04.2019 (Annexure P-10) passed by respondent-University whereby the petitioner was denied the benefit of marks for improvement examination.

2. While giving the facts of the present case, learned counsel for the petitioner submitted that petitioner was a student of B.Sc. in Government P.G. College, Safidon, affiliated with the respondent-University namely Kurukshetra University, Kurukshetra. He submitted that the petitioner has completed his B.Sc. Course in July 2016. Furthermore, vide Rule 16 of University Calendar, Volume-II, Part-A, Ordinance B.A./B.Sc. (General and



Hons.) (Semester) Examination, there is a specific provision for enabling the students who are desirous for improving their performance/result/division by giving them an opportunity for improvement of marks. He submitted that an elaborate procedure has been prescribed in the aforesaid Ordinance and the petitioner fulfilled all the ingredients of the aforesaid Ordinance and had taken examination for the first and second semesters for the purpose of improvement and thereafter he improved total 31 marks in the aggregate of all the six semesters' examination in accordance with the aforesaid Ordinance but he has been denied the benefit of improvement examination because of passing of an order on 24.04.2019 vide Annexure P-10 on the ground that his request for improvement is not covered under the aforesaid Ordinance because the benefit of improvement can be given to a candidate who improves his/her result in the aggregate of the whole examination on improvement but since the petitioner did not improve marks in Chemistry and Math papers in B.Sc. 1st semester examination and in Physics and English papers in B.Sc. 2nd semester examination, he was not entitled and his request for improvement of marks would not be accepted.

3. Learned counsel further submitted that similar reason has also been mentioned in the reply filed by the respondent-University which has not been supported by the aforesaid Ordinance. He further submitted that the reason which has been given by the respondent-University in the impugned order and reply is absolutely against the spirit of the aforesaid Ordinance because as per the aforesaid Ordinance it is so provided that the aggregate of the whole six semesters is to be seen whereas as per the impugned order and



the reply it has been stated that aggregate of whole examinations i.e. all the subjects of a semester on improvement is to be seen and therefore on the face of it the reasoning given by the respondent-University in the impugned order and the reply is in violation of the aforesaid ordinance. He submitted that he has improved his aggregate by 31 marks for all the six semesters and therefore, was fully covered by the aforesaid Ordinance and direction may be issued to respondent-University to issue a fresh DMC to the petitioner by adding the aforesaid improved marks as it affects the career of the petitioner because initially he has obtained less than 50% marks and in case he is granted the aforesaid benefit of improved marks then his total percentage will be about 50%. He further submitted that in pursuance of the aforesaid Rule 16 of the aforesaid Ordinance rather separate DMCs have been issued to the petitioner depicting improved marks which are annexed at Annexure P-3 for semester-1 and Annexure P-4 for semester-02 and prayed that directions may be issued to respondent-University to issue consolidated DMC to the petitioner for all six semesters so that a degree can be issued to the petitioner pertaining to the same.

4. On the other hand, learned counsel appearing for the respondents-University submitted that so far as the reasoning given in the impugned order and in the reply is concerned the same is not happily worded because the reason for non-grant of the improved marks is different which he has argued by supplying a chart in this regard. He submitted that the reason as to why the petitioner has not been granted the benefit of improved marks is that in the first semester, the petitioner initially had secured total of 168 marks



and after he appeared for the improvement in all the subjects, his aggregate comes to be 167 because in one subject he had improved and in other subject his marks have been decreased and his total aggregate for the first semester in the improved paper is 167 which is 01 number less than 168 and, therefore, so far as the first semester is concerned, the marks of the petitioner have been reduced from 168 to 167.

5. He further submitted that so far as the second semester of the petitioner is concerned, prior to improvement his secured marks were 301 in aggregate of all the subjects and after he took the examination for improvement of 2nd semester then although his total aggregate marks were increased by 32 and the total comes out to be 333 but his result of the second semester in the improvement paper could not be declared because of the fact that in one of the aforesaid paper in Physics, the petitioner has failed because he did not secure the minimum passing marks and since the petitioner has failed in the paper of physics the entire second semester's result could not be considered for the purpose of granting improvement. He submitted that consequently no benefits could have been granted to the petitioner by issuing any consolidated marksheet in this regard.

6. I have heard learned counsels for the parties.

7. The issue involved in the present case is with regard to application of Rule 16 of University Calendar, Volume-II, Part-A, Ordinance B.A./B.Sc. (General and Hons.) (Semester) Examination. The aforesaid Rule 16 is reproduced as under:-

“16. “A Candidate who has passed B.A./B.Sc. (General



& Honours) Examination of this University and is desirous of improving his/her performance/result/division, will be allowed within the next four Semester examinations of passing the Sixth Semester examination to appear as an ex-student in one or more theory paper(s) of any one or two Parts, out of Part-I (Semester I & II), Part-II (Semester III & IV) and Part-III (Semester V & VI) separately in four consecutive Semester examinations and shall pay examination fee as for the whole Semester examination in which he/she opts to appear. The result of such a candidate shall be declared only if he/she improves his/her result in the aggregate of the whole six Semester examinations, by taking into account the marks obtained by him/her in the paper(s)/Semester(s) in which he/she re-appears and the marks obtained by him/her earlier in the remaining paper(s)/Semester(s) etc. In case, where there are more than one papers in any subject and the candidate appears in one or two papers of that subject, the benefit of increased marks in those papers will also be allowed for improvement of performance/result/division. The fact that the candidate has improved the result shall be mentioned in the Detailed Marks-Card.

Such candidates shall take the examination according to the syllabus in force for the regular students for that Semester examination.”



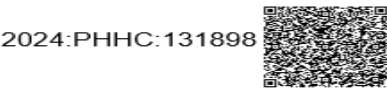
8. The dispute in the present case is that the petitioner appeared for the improvement examination in the both first and second semesters and he is being denied the benefit of improvement of marks. For the first semester initially his aggregate marks were 168 and after his examination of improvement he secured aggregate of 167 which is one mark less. So far as the second semester is concerned, his initial marks prior to improvement were 301 but after he took the examination for improvement, his result has not been declared on the ground that in one of the papers he has failed but otherwise his aggregate marks for the second semester taking into consideration all the subjects were increased by 32 and in this way his aggregate marks were 333. It is a case of learned counsel for the respondent-University that result of the second semester in the improvement paper could not be declared because of the reason that in one of the papers i.e. Physics, the petitioner has failed because he did not secure the minimum passing marks. However, a query was raised to learned counsel for respondent-University that as to how and under which provision of law, the result of the petitioner for the second semester in the improvement examination was not declared and has been failed to which he could not refer to any such provision. Another query was raised to learned counsel for respondent-University that in normal course, if in one semester, a candidate fails to achieve the minimum marks in one subject, then normally he is shown as re-appear for that subject but he is never shown as having failed in the entire semester, to which learned counsel for respondent-University could not offer any justification. He referred to Rule 8.1 of the aforesaid Ordinance and



submitted that it is correct that in normal course if a candidate appears in any semester and is unable to secure the minimum passing marks in one subject then qua that subject only the candidate is required to re-appear, and the entire semester is not marked as failed.

9. From the above, it is clear that once it is an admitted position that if a candidate is unable to obtain the minimum passing marks in one of the subjects during the entire semester then he/she cannot be shown as fail and at the most he/she can be shown as re-appear in that subject. However, in the present case as per learned counsel for the respondent-University, improved examination marks for the second semester were not added because of the reason that he did not secure the minimum passing marks in the subject of physics and, therefore, his entire result was marked as failed, which is not sustainable and is against the rules. Therefore, the only option remaining is to count the aggregate marks for the second semester, which the petitioner actually obtained in the improvement examination. In the event this exercise is carried out, it is an admitted position that the petitioner has secured 32 more marks in addition to his previous result and therefore his total marks in the second semester come out to be 333. However, the petitioner secured one mark less in the aggregate of first semester and the net result of the same is that considering his marks from both the first and second semesters, he has actually improved his total by 31 marks. As per the aforesaid Rule 16, if there is an improvement in the aggregate marks of all the six semesters, then the benefit has to be granted.

10. In view of the aforesaid facts and circumstances, the present



petition is allowed. Impugned order dated 24.04.2019 (Annexure P-10) is hereby set aside. The respondent-University is directed to rectify the mistake made by them and revise the DMC already issued to the petitioner in light of the present order. Furthermore, the respondent-University is required to issue a consolidated DMC for all six semesters. The exercise be completed within two months.

(JASGURPREET SINGH PURI)
JUDGE

01.10.2024
shweta

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