



CWP-21147-2020

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

**CWP-21147-2020
Date of Decision: 28.08.2024**

Ashok Singh

..... Petitioner

Versus

Maharishi Dayanand University, Rohtak and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. N.K. Chhokar, Advocate,
for the petitioners.

Mr. Vikas Chaudhary, Advocate,
for respondents No.1 & 2.

Mr. Jagdeep Singh Rana, Advocate,
for respondent No.3.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of *mandamus* directing the respondents No.1 & 2 to make necessary corrections on its website regarding the year of completion of B.Tech. Degree (Civil Engineering) of the petitioner as the same has been wrongly mentioned as the year 2019 instead of the year 2016 with a further prayer that correction in the degree be made with regard to the year of completion of degree i.e. the year 2016 and the same be sent to the petitioner after doing necessary corrections so that he can be promoted to the post of SDO in accordance with the B.Tech Degree (Civil Engineering) shown to be completed in the year 2016.



2. While giving the brief facts of the case, learned counsel for the petitioner submitted that the petitioner is working as Junior Engineer in Narwana Water Services Division, District Jind, Haryana in Irrigation and Water Resources Department, Panchkula and with due permission, he got admission in the respondent-University for the purpose of pursuing his further studies i.e. B.Tech. (Civil Engineering) for the academic session 2012-2015. He further submitted that the petitioner got admission in the aforesaid course which consisted of eight semesters and the dispute in the present case is pertaining to the 5th semester whereby with respect to Subject Code No.3117, he was shown to have failed because he did not secure the minimum of 40 marks and similarly for the Subject Code No.3114 also he was shown to be failed because he did not secure the minimum of 40 marks. However, the petitioner was granted 11 grace marks in December, 2014 pertaining to the aforesaid Subject Code 3114 and in this way, he passed the aforesaid Subject Code 3114. Thereafter, with regard to the Subject Code 3117 pertaining to the same semester, he was thereafter also granted 7 grace marks and consequent upon the same, he also cleared the aforesaid Subject Code of 3117, but his result for the aforesaid semester was not declared and it was shown as 'Result late'.

3. Learned counsel for the petitioner further submitted that in this way the matter kept lingering on and in December, 2019, he was asked to re-appear in exam for the Subject Code of 3117 for the 5th semester and he had no option but to take the exam again and had passed in the aforesaid subject code and secured 52 marks which is an undisputed position. He also submitted that the stand which has been taken by the respondents was that

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the entire examination system has been outsourced through a private agency and there was an inadvertent mistake by the outsourcing agency in granting the aforesaid 7 grace marks for the Subject Code of 3117 because of which, his result was not declared and eventually he was forced to again appear in the exam in the year 2019 and he passed in the aforesaid subject. He submitted that it was after the passing of the aforesaid exam that the petitioner cleared all the exams and vide Annexure R-1/2 the aforesaid 7 grace marks were withdrawn on 30.07.2020 even after he had passed the aforesaid Subject Code of 3117. He further submitted that the aforesaid action of the respondents is totally perverse because once he had already cleared the exam for the aforesaid subject code, there was no occasion for the respondents to have passed an order of withdrawal of grace marks. He also submitted that net result of the same was that the petitioner, who was to be given the degree for B.Tech. (Civil Engineering) in the year 2015/2016, was not given to him and it was only in the year 2019 after he re-appeared in the aforesaid subject code of 5th semester and passed the exam thereafter, he has been granted degree and the further consequences of the same were that his seniority and promotion has been affected in the parent department where he is working as a Junior Engineer due to wastage of 4 years of time because the date of passing of the B.Tech examination was one of the qualifications for the purpose of promotion to the further post of SDO and consequent upon the same, rather his juniors have been promoted because of the aforesaid mistake made by the University. He submitted that a direction may be issued to the University to rectify the mistake and to grant the degree to the petitioner to have completed in the year 2015/2016 immediately after

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he completed the course. The University has withdrawn the marks in the year 2020 only on the ground that as per their own Ordinance which has been attached as Annexure P-8, according to which, 1% grace marks will be calculated on the basis of aggregate marks of an examination. He also submitted that no opportunity of hearing was granted to the petitioner before withdrawal of the aforesaid grace marks and once the respondents have admitted their mistake and had also stated in the reply that action has been taken against the concerned officer etc., the career of the petitioner could not have been jeopardized because there was an inadvertent mistake on the part of the respondent-University which may in turn be of the outsourced agency.

4. On the other hand, Mr. Vikas Chaudhary, learned counsel appearing on behalf of the respondents-University submitted that as per the Ordinance of the University (Annexure P-8), the maximum grace marks which can be awarded is 1% of the total aggregate marks of an examination and the total aggregate marks for the entire semester was 1150 and therefore, the maximum grace marks which could be granted for any of the subject pertaining to one semester was 12 marks being a round off figure. He further submitted that once the petitioner was granted 11 grace marks for the subject code of 3114 in December, 2014 pertaining to the aforesaid 5th semester, then no further grace marks could have been awarded for the other Subject Code of 3117 but inadvertently the aforesaid grace marks were granted to the petitioner because of the reasons that the entire examination system was conducted through an outsourcing agency and there was a change of contractor as well and because of the aforesaid mistake which has been committed by the outsource agency, he was granted the grace marks which



was in excess of the maximum permissible limit as per the Ordinance of the University and therefore, the University had no option but to withdraw the aforesaid grace marks. He also submitted that now the petitioner has already been granted Degree in the year 2019 and therefore, no intterference is called for in the present petition.

5. I have heard the learned counsels for the parties.

6. The only dispute in the present case is as to whether the respondent-University was within its right to have withheld the degree of the petitioner on the ground that the outsource agency, who was the Incharge of the examination system had committed an inadvertent mistake by granting grace marks to the petitioner in excess of what is permissible under the Ordinance of the University. The petitioner ordinarily would have got the degree in the year 2016 after completion of his B.Tech Course of the 2012-2015 Batch but he has been granted degree in the year 2019 and in this way there is a difference of 4 years in the grant of degree. The argument of the learned counsel for the petitioner was that as a result of the aforesaid delay of 4 years, the career of the petitioner has been prejudiciously affected as his juniors have been promoted in his parent department on the basis of year of grant of degree.

7. A perusal of the reply which has been filed by the University would show that the examination was conducted by outsourcing through a private agency and as per the learned counsel for the respondent, there was a change of contractor. The inadvertent mistake which has been committed by the respondent-University or the outsourcing agency is not disputed by the respondents. 7 grace marks which have been granted to the petitioner for the

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Subject Code of 3117 which was ultimately sought to be reversed would have entitled the petitioner for the award of degree in the year 2016. However, admittedly neither any opportunity of hearing was given to the petitioner nor any notice was given to the petitioner in this regard. This Court is of the considered view that once the grace marks were granted to the petitioner and his period of B.Tech. Course was complete and he was to get the degree then without any opportunity of hearing or any notice no such order of withdrawal of grace marks could not have been passed. Even otherwise also, the mistake which was although made by the outsourcing agency has been admitted by the respondents but the mere fact that the mistake has been committed inadvertently which ultimately jeopardized the career of the petitioner cannot become a ground for denial of the rights because the aforesaid rights accrued to the petitioner for grant of grace marks even if it was in violation of the aforesaid Ordinance because it vested with him civil consequences.

8. The Ordinance although provides for maximum 1% grace marks but the University or its agency itself violated the aforesaid Ordinance and it was not because of any fraud or misrepresentation or any kind of trick being played by the petitioner. It is not a case that the petitioner has made any representation before the respondents for grant of grace marks but the respondent-University itself granted the grace marks and therefore, the violation, if any, has been committed by the respondents and not by the petitioner but the petitioner had to suffer because of the aforesaid violation on the part of the University.

9. There is another important aspect in the present case that after

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the petitioner re-appeared in the aforesaid subject code in the year 2019 and cleared the exam of the aforesaid subject code. Then it was as a subsequent event vide Annexure R-2/1, the grace marks were withdrawn which was not even required to have been done because the petitioner had already cleared the exam of the aforesaid subject code in December, 2019. Therefore, it is clear that the action of the respondents is not only unreasonable but is also perverse in nature.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The respondents are directed to issue fresh degree to the petitioner as the petitioner will be deemed to have completed his course in the year 2015/2016.

11. Considering the aforesaid facts and circumstances whereby the career of the petitioner has been prejudicially affected because of the mistake committed by the University although it was so stated that the same was committed inadvertently by the outsourcing agency, the petitioner shall also be entitled for costs which are assessed as Rs.50,000/- which shall be paid to the petitioner by way of a demand draft within a period of three months from today. The aforesaid costs shall be paid to the petitioner by the University and thereafter, the Vice Chancellor/Registrar of the University may in its discretion fix the responsibility of the officer(s) concerned in this regard and recover the aforesaid amount from the concerned officer(s) in accordance with law.

28.08.2024*Bhumika***(JASGURPREET SINGH PURI)****JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |