



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

**CWP-31317-2018 (O&M)  
Date of Decision:29.07.2024**

Sapna Kumari

.....Petitioner

Versus

Punjab State Board of Technical Education and Industrial Training and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. Surinder Thakur, Advocate for the petitioner.

Mr. Rajeev Kawatra, Advocate for respondents No.1 to 4.

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**JASGURPREET SINGH PURI J.(Oral)**

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari/mandamus* for quashing the impugned order dated 27.11.2018 (Annexure P-7) passed by respondent No.4 whereby the claim of the petitioner for issuance of Original Computer Engineering Diploma Certificate has been rejected.

2. Brief facts of the present case are that the petitioner took admission in the respondent No.5-College, which is affiliated with respondents No.1 to 4-Punjab State Board of Technical Education and Industrial Training (hereinafter called as the 'Board') for doing Diploma in Computer Engineering in the year 2010. The aforesaid diploma was a three years course having six semesters. In the first semester, the petitioner took the



examination but she could not clear one of the subjects i.e. Applied Mathematics-I because she secured 25 marks whereas the passing marks in the aforesaid subject were 30. Thereafter, the petitioner took examination till her six semesters and cleared all the semesters of all the subjects. However, result of the aforesaid first semester was still pending and was not declared because for that semester there was a re-appear in the subject of Applied Mathematics-I.

3. On 19.10.2012, she applied for re-evaluation for the aforesaid subject. However, before the result of the re-evaluation was declared by the respondent-Board, the Board took a decision of granting 05 marks as grace marks to those students who were having marginally less marks and in this way admittedly the petitioner was granted 05 marks as grace marks in the aforesaid subject and the consequence of the same was that the petitioner cleared the aforesaid subject which was the sole subject in which she got re-appear and after granting the aforesaid grace marks, the petitioner was issued Detailed Marks Card as well vide Annexure P-1 which reflects 5 grace marks and also shows to the same to be "Pass (Grace)". Thereafter the respondent No.5-College also granted provisional certificate to the petitioner vide Annexure P-3. However, the respondent-Board did not issue the original diploma certificate on the ground that after granting 5 grace marks to the petitioner, her application for re-evaluation was processed and after re-evaluation on the same, 05 marks in the aforesaid subject were reduced and thereafter the original marks were reduced from 25 to 20 and since original marks now became 20, she was declared failed in the aforesaid subject and



therefore she will again have to re-appear in the examination of aforesaid subject. The petitioner filed a writ petition before this Court bearing CWP No.26263-2018 which was disposed of by a Coordinate Bench of this Court on 11.10.2018 vide Annexure P-6 with a direction that in case legal notice has been received by the office of concerned authority then it shall take a decision thereon at the earliest, in any case not later than one month. Thereafter the respondent-Board passed the impugned order vide Annexure P-7 whereby the claim of the petitioner has been rejected.

4. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the dispute is with regard to only one subject i.e. Applied Mathematics-I of first semester which the petitioner could not clear because she obtained 25 marks whereas the requisite passing marks were 30. Since there was a provision for re-evaluation, the petitioner applied for re-evaluation but before the result of the re-evaluation could be declared, the respondent-Board themselves granted 05 grace marks to her and also issued Detailed Marks Card vide Annexure P-1 which reflects 05 grace marks and she was declared as 'pass'. He further submitted that thereafter the petitioner was never informed nor any other student was ever informed by the respondent-Board that those students who had applied for re-evaluation before granting of 05 grace marks can now either pursue their applications or not. However, the petitioner who is a young girl of the age of 24 years was not aware that she was either to pursue her application for re-evaluation or not but she was over-joyed after granting 05 grace marks and was satisfied with the same because now she cleared her first semester as well. He further



submitted that it was the duty of the respondent-Board to have at least put it to the notice of the students that with the grant of 05 grace marks if they wanted to pursue the re-evaluation or not but in the most mechanical manner, they still proceeded with the re-evaluation application of the petitioner and the result of the same was that in the re-evaluation 05 marks were reduced in the aforesaid subject and in this way, issuance of original certificate has been denied in the aforesaid diploma to the petitioner because of the aforesaid reason.

5. After completion of the aforesaid Diploma in Computer Engineering, the petitioner has rather taken admission in B.Sc. and thereafter in M.Sc. and she has also completed the aforesaid two courses but the basic diploma for which she is wanting original certificate is not issued by the respondent-Board due to aforesaid reason and the consequence of the same is that now she is unable to apply for a job because Original Computer Engineering Diploma Certificate is not in her possession. He also submitted that necessary directions may be issued to the respondent-Board for issuance of the Original Computer Engineering Diploma Certificate although provisional diploma certificate has been issued to her by the respondent-College vide Annexure P-3

6. On the other hand, learned counsel appearing through video conferencing on behalf of respondents-Board, submitted that the petitioner had already applied for re-evaluation before getting 05 grace marks but at the time when 05 grace marks were granted to her, she was very much aware that grace marks have been awarded and therefore she could have stopped the



university from further processing her application for re-evaluation which she did not do and thereafter when her application for re-evaluation was processed, her 05 marks were reduced in the aforesaid subject and in this way she failed in the aforesaid subject of first semester and she is not entitled for grant of grace marks as per Rule 21 of the Examination Rules which has been attached alongwith the reply filed by respondents-Board vide Annexure R-1

7. I have heard learned counsels for the parties.

8. The short issue involved in the present case is that after granting 05 grace marks to the students, whether the respondent-Board was duty bound to have informed the students who have already applied for re-evaluation, by putting them on notice that as to whether they wanted to continue with the re-evaluation application or not. There is no doubt that in re-evaluation the marks can either be increased or decreased. However, it is not a case of the petitioner as to why her marks have been decreased but it is the case of the petitioner that after she had failed in one of the subjects she had well within her rights applied for re-evaluation which ought to have been done by any student having normal diligence level and she exercised her rights in accordance with law by applying for re-evaluation. However, once the University itself had taken a conscious decision by way of a policy for grant of 05 marks at par, with those students who were having marginally less marks than the passing marks which were also made available to the petitioner admittedly then the pending application for re-evaluation was processed and thereafter her marks were reduced which could not go to the detriment of the petitioner.



9. When the respondent-Board took a decision of granting 05 grace marks to all the students who were coming within the parameters of marginally less marks and the benefit was also granted to the petitioner with a result that the petitioner passed in the aforesaid subject by securing 30 marks including the grace marks which is so reflected in the DMC at Annexure P-1 then as a subsequent event it was the duty of the respondent-Board to have apprised the students by putting them on notice or by giving an option as to whether they wanted to continue with the re-evaluation application or not. This ought to have been done simultaneously alongwith the decision which the respondent-Board took for grant of 05 grace marks. It is not a case that petitioner applied for re-evaluation after grant of grace marks but it is a case where she applied for re-evaluation before the award of grace marks.

10. The respondent-Board is a professional institution consisting of academicians and administrators and they are expected to apply their mind and diligence at a much higher pedestal by visualizing as to what will be the effect of the decision taken by them. However, on the other hand, the petitioner is a young girl of the age of 24 years. The level of diligence and professional knowledge etc. was not available with her and it was not the duty of the petitioner to have thought to such an extent to have revoked her application after grace marks were granted to her. This is a paramount duty of the respondent-Board and not of the student. The net consequence of the aforesaid negligence on the part of the respondent-Board is that the petitioner after even getting grace marks again got failed because in her re-evaluation



application, the marks were reduced as re-evaluation which was applied prior to award of grace marks was re-evaluated after the grant of grace marks. The action of the respondent-Board was *ex-facie* perverse and arbitrary in nature.

11. Learned counsel for respondent-Board has referred to Rule 21 of the Examination Rules which has been attached with the reply filed by respondent-Board as Annexure R-1 and submitted that it has been so stated in the aforesaid examination rules that the grace marks shall be given to those candidates who have scored marginally less marks than the passing marks and by awarding of the same they are able to pass in all the subjects. It is further pointed out that the quantum of grace marks shall not exceed one percent of the maximum of theory and practical papers pertaining to a particular semester/Class and the marks shall not, however, be noted in the answer book but shall be added in the result sheet only. The aforesaid Rule 21 of Examination Rules is reproduced as under:-

**“21. AWARD OF GRACE MARKS :**

*Marginal assistance in the form of grace marks shall be given to the candidates on the following pattern:-*

*i) Grace marks as fixed under (ii) shall be given to marginal candidates only if by awarding the same they are able to pass in all the subjects.*

*Grace marks required to just fulfill this condition only shall be awarded, notwithstanding the minimum quantum fixed in para (ii) hereunder:-*

*Grace marks shall be awarded irrespective of the number of subjects in which the candidate fails. Each practical shall be treated as a separate subject.*

*ii) The quantum of grace marks shall not exceed one percent of the maximum of theory and practical papers*



*pertaining to a particular semester/Class.*

*iii) The marks shall not however, be noted in the answer book (s) or on the award sheet (s) but shall be added in the result sheet only.”*

12. A perusal of the same does not show that once the grace marks have been granted to a student and thereafter as a subsequent event, on re-evaluation, a candidate has failed then no such grace marks could be granted. Therefore the argument raised by learned counsel for the respondent-Board that no grace marks can be awarded, once a candidate has failed on re-evaluation, does not sustain.

13. It is also stated by learned counsel for the petitioner that rather on the basis of the aforesaid provisional certificate which was granted by the respondent-College, she has rather attained her qualifications of B.Sc. and M.Sc. as well but she has not been able to apply for a job because the respondent-Board is not releasing the original certificate only because of the aforesaid reason.

14. After considering the aforesaid submissions, the present petition deserves to be allowed. The impugned order dated 27.11.2018 at Annexure P-7 which has been passed by the respondent-Board is illegal and perverse and is hereby set aside and quashed. The respondent-Board is hereby directed to issue original Computer Engineering Diploma Certificate to the petitioner within a period of two months from today.

15. Since, because of the perverse action of the respondent-Board, the career of the petitioner has been jeopardized and as per learned counsel for



the petitioner, she is not able to apply for a job because of the want of the aforesaid original certificate, the petitioner shall also be entitled for costs which are assessed as Rs.25,000/-which shall also be paid by the respondent-Board to the petitioner within the aforesaid time frame.

16. At this stage, learned counsel for respondents-Board also argued that the petitioner did not appear for the aforesaid subject to the subsequent semesters.

17. The argument raised by learned counsel for respondents-Board is again unsustainable in view of the fact that once the respondent-Board had granted grace marks which had an effect of passing in the subject, then there was no occasion for the petitioner to have appeared subsequently.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**29.07.2024**

*shweta*

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