
(2013) 07 P&H CK 0317
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 14734 of 2001 (O and M)

Ankur Gupta and Others

APPELLANT

Vs

Punjab Technical University and Another

RESPONDENT

Date of Decision : 31-07-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 07 P&H CK 0317

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; Augustine George Masih, J

Bench : Division Bench

Advocate : Sanjeev Sharma, for the Appellant; Angel Sharma, Advocate for Respondent No. 1 and Mr. P.S. Sekhon, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.—The present writ petition under Article 226 of the Constitution of India has been filed by 7 petitioners seeking a direction to change the category of their seats from paid seats to free seats for the B.Tech (IT.) Course. The undisputed facts are that in pursuance to the counselling by respondent No. 1-University, these 7 candidates were allocated paid seats as per their merit in respondent No. 2-College for the session 2000-01 and 2001-02 (two years" course). There were 40 seats allocated to respondent No. 2-College, which were carrying on only the IT. Course. 50% of these seats were paid seats while 50% were free seats. In addition, 20 seats in the same ratio of 50:50 were allocated to respondent No. 2-College but by the time, the allocation took place on 25.08.2000, it became too late for the seats to be filled in and as a via media these seats were sought to be filled in the 3rd semester.

2. The process of filling of these additional seats was that they could be either on up-gradation of course from the same college or transfer from other colleges. It is once again admitted that there were ultimately 47 seats in the 3rd semester consisting of 7 students admitted on transfer. Three students from the college were upgraded and 7 students who were admitted on transfer came to occupy

the 10 free seats out of the additional 20 seats which were sanctioned and thus, all the free seats were filled up.

3. The grievance of the petitioners is that though as per their merit, they were rightly allocated paid seats as there were only 40 seats in existence, they were entitled to the free seats out of the additional seats since persons lower in merit than them were admitted to the free seats. The admission in the 3rd semester had to take place on the basis of the performance in the 1st and 2nd semester but since 2nd semester marks were not available due to delayed result, this was done on the basis of the marks obtained in the 1st semester.

4. The crux of the problem arises on account of the fact that the intimation was received by the college from the university only on 18.07.2001 when the public notice was put up on the notice board while the counselling was to take place on 19.07.2001 at 9 A.M. The petitioners claim that they did not get sufficient time to join the counselling since Regulation 7 of the Brochure provides for two days' advance notice.

5. On the other hand, learned counsel for respondent No. 2-College states that the advertisement was published in Tribune on 14.07.2001, which was sufficient notice for the petitioners. Not only that some of the in-house candidates were up-graded as they were present for the counselling. As per Regulation 9, if a student is not present on the date and time of up-gradation, he loses his chance for up-gradation and no representation is to be entertained later on. Thus, on that account also, it is stated that the petitioners cannot make a grievance.

6. The other aspect, which we may note is that respondent No. 2 had taken a preliminary objection in the counter affidavit filed on 13.02.2002 of non-joinder of necessary parties i.e. the affected students, who had been granted the free seats, were not impleaded as parties. This was on the basis that there cannot be an increase of free seats and if the petitioners were to be made available the free seats, then those who had got free seats, were liable to be admitted only against paid seats. Despite this objection, the affected parties were never added and have thus not appeared before us.

7. In our view, this petition must fail on account of the following reasons:

(i) The affected parties, who had got the free seats, have not been impleaded before us. It is not as if there are unlimited free seats in the college and if the petitioners were to get the benefit of the free seats then certain other candidates, who had been given free seats, will lose that privilege.

(ii) Filling up of the additional seats has been as per the Regulations and norms. The advertisement was published in the newspaper well in advance of two days i.e. on 14.07.2001 and the petitioners must be deemed to have notice of the counselling on 19.07.2001 on account of the public notice.

(iii) There could not have been an individual notice service as the college itself received the intimation from the university on 18.07.2001 while the counselling

was from next day. Thus, it was put up on the notice board on the same day and reliance was placed on the earlier advertisement of 14.07.2001. Further interested students of this college attended the counselling and got up-gradation of three paid seats to free seats.

(iv) The petitioners have completed their course long time ago and the only issue now is of refund of the additional fee paid. The college cannot be made to refund this additional fee as there are no other candidates, from whom this amount can be recovered even otherwise.

8. We are thus, not inclined to entertain this petition under Article 226 of the Constitution of India. Dismissed.