

(1998) 03 SHI CK 0006

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 511 of 1997

Arun Gautam and Others

APPELLANT

Vs

H.P. Technical Education Board and Others

RESPONDENT

Date of Decision : 25-03-1998

Acts Referred:

Citation : (1998) 2 ShimLC 364

Hon'ble Judges : M.N. Rao, C.J.; L.S. Panta, J

Bench : Division Bench

Advocate : Ranjana Parmar, for the Appellant; M.L. Chauhan, Assistant A.G. for Respondent Nos. 2 and 3 and Vijay Thakur, for the Respondent

Final Decision : Allowed

Judgement

M.N. Rao, C.J.—This writ petition relates to interpretation of the decision taken by the Himachal Pradesh Takniki Shiksha Board (for short the "Board") in its meeting held in the 19th meeting on 30.1.1996 which is in the following terms:

A candidate who does not qualify his 2nd semester completely, he may not be admitted in the 5th semester.

2. The Petitioners are students of Government Polytechnic, Sunder Nagar, District Mandi, Himachal Pradesh. The Petitioner Nos. 1 and 2 are studying for diploma in Civil Engineering and Petitioner No. 3 for Electrical Engineering. In June 1997 when Petitioner No. 1 appeared for the examination in Applied Mathematics in the 2nd semester, the result declared showed that he failed and, therefore, he was asked to "re-appear" for the same examination. Instead of appearing once again for the examination, he requested the University authorities to revalue the paper in Applied Mathematics. In the case of 2nd Petitioner, the subject concerned is Applied Mechanics and the subject of the 3rd Petitioner is English (II). Petitioner Nos. 2 and 3 also asked for revaluation since the published results showed that they failed in the aforesaid subjects. In the revaluation, all the three Petitioners came out successfully. In the case of Petitioner Nos. 1 and 2,

the result of the revaluation was announced on November 20, 1997 and in the case of 3rd Petitioner on 27.11.1997. Despite the fact that all the three Petitioners completed the second semester in consequence of their success in the revaluation in the subject mentioned-above, they were not permitted to join the 5th semester on the ground that they did not complete the second semester fully. This interpretation was placed by the College authorities on the ground that the original results published in June 1997 showed that the Petitioners failed in the three subjects and their subsequent success in the revaluation could not be treated as success in the original examination.

3. After hearing the learned Counsel on both sides, we are of the view that the Writ Petition must succeed. The decision of the Board extracted supra clearly lays down that the necessary pre-condition for admission to the 5th semester is complete pass in all the subjects of the Second Semester. When all the three Petitioners succeeded in the revaluation, their success cannot but be construed as relatable to the original examination the result of which were published in June 1997. Revaluation cannot be construed as re-appearance in respect of the same subject. The result of the revaluation notified in November 1997 must relate back to June 1997 when the results of the entire examination were published.

One Anr. objection raised by the Board is that the Petitioners failed to complete the maximum 75% attendance and, therefore, they were not eligible to appear for the 5th semester examination. It is the case of the Petitioners that since they succeeded in the revaluation, the College authorities permitted them to attend the classes but this is not admitted by the other side. The failure of the Petitioners to complete the requirement of 75% attendance, in the particular circumstances of the case, cannot be construed as a factor dis-entitling them from gaining the admission to the 5th semester. Failure to attend the classes was not due to their fault but solely due to the situation that emerged because of the failure on the part of the examiners to evaluate properly the answer scripts of the Petitioners in the first instance. When the fault was rectified by the University in the revaluation, the Petitioners are entitled to all the advantages that accrued to all the candidates who came out successfully in the results published in June 1997. They cannot be penalised on the ground that they did not complete the maximum attendance requirement. We may also mention in this context that it is the case of the Petitioners that the lecturers permitted them to sit in the classes having regard to the fact that they were successful in the revaluation. In the counter-affidavit filed by the Principal, it is denied that the Petitioners were given permission to attend the classes. In our judgment, this aspect has no bearing in deciding the right of the Petitioners to secure admission in the 5th semester.

4. By an interim order dated 10th December, 1997, a Division Bench of this Court directed the Petitioners to appear in the 5th semester examination and they were also directed to sit in the 6th semester by Anr. interlocutory order dated 22.1.1998. Their results insofar as 5th semester examination is concerned were

directed to be withheld by the interim order dated 10th December, 1997. We, therefore, direct the Respondents to declare the results of the Petitioners of the 5th semester examination and the Respondents are also further directed to consider the admission of the Petitioners to 6th semester taking into account the fact that the Petitioners are entitled for regular admission to 5th semester.

5. For the reasons stated above, the Civil Writ Petition is allowed with the above directions. No costs.

CMP Nos. 1089/97 and 98/98

In view of the disposal of the main Writ Petition, the applications are also disposed of.