

(1993) 02 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 14815 of 1992

Bhupinder Singh Gill

APPELLANT

Vs

Punjab University, Chandigarh and another

RESPONDENT

Date of Decision : 08-02-1993

Acts Referred:

Constitution of India, 1950 — Article 141, 226

Citation : AIR 1993 P&H 240

Hon'ble Judges : R.S. Mongia, J

Bench : Single Bench

Advocate : K.S. Saini and Karam Singh Gill, for the Appellant; R.L. Sharma, for the Respondent

Judgement

1. The petitioner had sought admission in the 1st Semester of LL.B. in the Department of Laws, Punjab University, Chandigarh, in the academic session 1990-91, but could not get admission on the basis of the merit list prepared by the Law Department. However, the petitioner got admission in the 1st year of LL.B Course (Session 1990-91) at Guru Nanak Khalsa College, Sri Ganga Nagar (Rajasthan), as a regular student, which is affiliated to Ajmer University. The petitioner applied for admission in the third Semester in the Law Department, Punjab University-respondent by way of migration on 27th August, 1991. According to the averments made in the petition, the petitioner did not receive any response from the Law Department, but when he approached the Law Department to Chandigarh, he came to know that the office had sent an intimation to him on a wrong address. He was refused admission by way of migration on the ground that under the Rules and Regulations of the Punjab University regarding migration, he was not entitled for migration, inasmuch as the percentage of marks of the petitioner in the qualifying examination was less than the percentage of marks of the last candidate admitted in the first Semester in the session in which the petitioner could have applied for admission in the Law Department at Chandigarh.

2. According to the petitioner, he obtained 61.5%, including weightage; whereas the last candidate admitted (Sarbjit Singh) who had got admission in the 1st Semester of 1990-91 session had obtained only 54.54% marks. According to the petitioner, his application for migration had been illegally rejected. He filed a petition in this Court (C.W.P. No. 18732 of 1991), which was disposed of on 31st January, 1992 in the following terms:--

"After hearing learned counsel -for the parties, we find, that under the rules of the University, migration from one University to another is permitted only in 3rd and 5th Semesters. Now since 3rd semester is already over, the only course left with the petitioner to seek migration is, in the 5th Semester. We, therefore, direct the University to consider the case of the petitioner for migration in the 5th semester, if otherwise he is eligible and qualified for such migration. The petition stands disposed of."

According to the petitioner, in pursuance of the above-said order, he again applied for migration in the 5th Semester in the Department of Laws, Punjab University, Chandigarh, on 17th July, 1992. Having failed to get any response from the Punjab University on his application for migration, he filed the present writ petition.

3. According to the Rules of the University, for the purpose of migration to the 5th Semester, apart from the conditions that it should be a hard case and seat should be available, the following conditions are to be satisfied:--

"4. In case of candidate seeking migration to the 5th semester, the difference in the courses covered by such a candidate in the 1st and in the 2nd year and the courses prescribed by the Punjab University for the 1st and 2nd year, i.e. 1st, 2nd, 3rd and 4th semester should not be with regard to more than one paper in all.

Provided that in either case a candidate seeking migration should either be having a Master's Degree, or if he does not have a Master's degree the percentage of marks of such a candidate at the graduate level should not be less than the percentage of marks of the last candidate admitted to the 1st Year, i.e. 1st Semester class in the session in which such a candidate would have applied had he joined the 1st Semester class in the Department of Laws, Punjab University, Chandigarh, in the relevant year.

Provided further that if such a candidate has cleared a paper at the 1st or the 2nd year, as the case may be, which under the Punjab University Regulation, is prescribed for the 2nd or 3rd year, as the case may be, he may be exempted from appearing in that paper. Provided further that if he had not cleared a paper which was prescribed by the Punjab University for the 1st and the 2nd year, as the case may be, he should offer it as an additional 1993 P.H./16 VIII G-35 paper along with the papers prescribed for the 2nd or 3rd year, as the case may be, and clear it without being required to attend the lectures in that subject.

5. No request of migration will be entertained after the 3rd week of July and all cases of migration will be decided by the end of the 1st week of August of the relevant session."

4. The stand of the respondent is that the percentage of marks of the last student admitted in the 1st semester was 68.37% for the morning session; while 68.03% for the evening session of 1990-91. Since the petitioner had less marks, therefore, he was not entitled for migration. Moreover, the difference in the courses in the Ajmer University covered by the petitioner in the first and second year course was of about 5 papers as compared to the Punjab University curricular; whereas the Regulation for eligibility of the candidates seeking migration in the 5th Semester, that the difference in courses should not be more than one paper. Apart from that it was further stated in the written statement that the 5th Semester was coming to an end on 24th November, 1992, and, therefore, the petitioner could not be allowed migration at this stage.

5. The learned counsel for the petitioner submitted that in fact students with lesser percentage of marks than the petitioner were admitted by virtue of the directions of this Court, and, therefore, the University was not right in saying that no person with lesser percentage of marks than the petitioner had been admitted in the 1st Semester (1990-91 session). The learned counsel referred to judgment in C.W.P. No. 167 of 1991, decided on 16th January, 1991 (Mr. Iqbal Singh v. Punjab University and another) to substantiate his submissions. Further, he submitted that the University was also not correct to say that the difference in courses in Ajmer University and the Punjab University in the Law Department was more than one paper.

6. As far as C.W.P. No. 167 of 1991 is concerned, it may be observed here that according to the Punjab University Regulations, if a particular student does not complete the requisite percentage of lectures in the first two weeks of the commencement of the session, then his name is liable to be struck off. In the 1st semester, there were 31 such students in the session 1990-91, who had not completed the minimum percentage of lectures in the first two weeks and their names were struck off. Some students who could not get admission in the 1990-91 session, had filed the above-said writ petition that they may be given admission against those 31 seats which had fallen vacant. The stand taken by the Law Department in that case was that 15 out of those students whose names had been struck off had satisfied the department that they were not in a position to attend the minimum percentage of lectures and only names of 22 students were struck off. In these circumstances, the Court had directed in the above-said case to make the provisional admissions granted to the petitioners under orders of this Court as regular, as candidates with higher merit had neither approached the Law Department nor this Court in spite of the fact that sufficient time had elapsed. It was further directed that the remaining seats, if any, be offered to the candidate/candidates, who may have merit subject to their availability. It was further mentioned that the order would not be treated as a precedent by those

students, who had not approached either the Law Department on this Court till then. On the basis of the above-said judgment, the learned counsel for the petitioner submitted that those candidate who had been granted admission by virtue of the order of this Court, had lesser percentage of marks than the petitioner, and, therefore, the University was not right in denying migration to the petitioner.

7. I am afraid, I cannot agree with the learned counsel for the petitioner. The provisional admission of the students, which was regularised by the Court's order, was on peculiar facts as the Court had already granted them provisional admission and it was observed that only the remaining seats would be offered on merit, and still further the same was not to be cited as a precedent by those students who had not approached the Law Department of this Court. I had asked the learned counsel for the respondents to find out if the petitioner's turn on the waiting list could have come on the remaining seats in view of the above judgment. He has placed on record a letter dated 3rd February, 1993 of the Head of the Department of Laws, intimating that no person lesser in merit than the petitioner, had been admitted on the remaining seats. The petitioner cannot take advantage of the fact that some students who may have been lower in merit, got admission by virtue of the Court's order. He never approached this Court and the Court while deciding the case clearly mentioned that this would not be cited as a precedent by those students who had not approached this Court.

8. Apart from that, the University is the best Authority to say whether the courses of two Universities are identical or there is any difference. It has been stated in the written statement that the difference of courses between the two Universities in the Law Department (1st and 2nd year of Ajmer University and 1st to 4th semesters of Punjab University) is more than one paper. This Court cannot go into the equivalence of the courses of various Universities and only, academicians are the best suited persons for the same. Still further, by now even the 5th semester is over and the examination has also been held.

9. For the foregoing reasons, I find no merit in this petition and the same is dismissed. However, there will be no order as to costs.

10. Petition dismissed.