
(2009) 04 DEL CK 0395
In the Delhi High Court
Case No : Writ Petition (C) 8196 of 2009

Deepa Mann

APPELLANT

Vs

Dilip Kr. Bandyopadhyay and Others

RESPONDENT

Date of Decision : 17-04-2009

Acts Referred:

Citation : (2009) 04 DEL CK 0395

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : S. Shahi, for the Appellant; G.D. Goel, Praveen Kumar for Respondent Nos. 1 and 2, Nitin Malik, Joint Registrar and A.D. Lamba, Assistant Registrar, GGSIPU, for the Respondent

Judgement

Sanjiv Khanna, J.—The petitioner is a student of Bachelor of Occupation Therapy in Delhi Institute of Rural Development. The petitioner has cleared her first year, after passing in one subject in the supplementary examination held in October, 2007.

2. The petitioner had appeared in examination of the second year but failed in one subject. The petitioner appeared in the supplementary examination in November, 2008 but did not again clear the said subject. The petitioner seeks relaxation of the eligibility requirement for being promoted to the third year. In the petition, it is alleged that nine students who had failed in one subject were promoted, subject to their clearing the said paper along with the papers for the next year.

3. Learned Counsel for the respondent University, who has appeared on advance notice, points out that the earlier ordinance did not provide for detaining a student in case he fails in any subject. In these circumstances, till academic year 2007-08, students who had failed in one subject were given provisional promotion and allowed to attend classes and lectures for the next academic year provided they cleared the said paper in the next academic year. However, in January, 2007 a new ordinance was notified and Clause 15(g) of the said

Ordinance is as under:

g. Supplementary examinations for the students will be held at the earliest like (within 6 weeks of declaration of results). This will facilitate the students to pursue his/her studies of the subsequent annual term. Supplementary tests can be held in any of the activated center of the university combined for all the institutions. The student failing in the supplementary tests will be declared failed and he/she will have to repeat the entire academic term.

4. The said Clause stipulates that a student who appears in a supplementary examination but fails to clear the same is required to repeat the entire academic year, and cannot be granted provisional promotion. Learned Counsel for the respondent further points out that the said Ordinance was notified and became applicable with effect from January, 2007. However, as the Ordinance was made applicable in the middle of the academic year and students were not aware and given sufficient notice, therefore, in the first year one time relaxation was given. It is further stated that no relaxation is envisaged and has been given to any student in the current academic year. Learned Counsel for the respondent has also pointed out that the petitioner has enrolled herself for the second academic year and has been attending classes and has appeared in the internal examination, which commenced from 13th April, 2009. Learned Counsel for the respondent has also drawn my attention to a similar averment made in the writ petition itself.

5. In view of the above factual position, I do not think petitioner can be promoted to third academic year, contrary to Clause 15(g) of the Ordinance. The academic standards fixed by the respondent University have to be adhered to and followed. This Court cannot modify and change the said academic standard and grant relaxation.

6. Learned Counsel for the petitioner states that the petitioner has deposited a fee of Rs. 46,000/- for the third academic year in view of the fact that she was appearing in the supplementary examination. This is admitted. The petitioner now has to repeat the second academic year. The fee of Rs. 46,000/- paid by the petitioner should be treated as paid by the petitioner for the second academic year and shall be given benefit of the same.

The writ petition is accordingly disposed of.