
(1996) 02 KAR CK 0042
In the Karnataka High Court
Case No : Writ Petition No. 4467 of 1992

H.S. Jayaramu

APPELLANT

Vs

University of Mysore and Another

RESPONDENT

Date of Decision : 13-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 3 KarLJ 99

Hon'ble Judges : Harinath Tilhari, J

Judgement

1. List has been revised thrice. On behalf of the petitioner, appearance has been put by Sri Noel Gonsalves. I have heard Sri Gonsalves and I have gone through the petition as well as the counter statement supported by affidavit filed by the respondents.

2. The petitioner has filed this petition with the prayer to the effect that a writ of mandamus or appropriate writ or order or direction be issued to respondent 1, that is University of Mysore, to grant extension of time for submission of dissertation/thesis work and to evaluate the same as required by regulations.

3. According to the admitted facts of the case, the petitioner had joined M. Tech. Course in Industrial Electronics in the College, namely Sri Jayachamarajendra College of Engineering, Mysore, that is respondent 2. The petitioner successfully completed his first and second semester course in the year 1985.

4. According to the petitioner's case, the result of the second semester was declared on November 2, 1985. As per petitioner's case contained in paragraph 1 of the petition, the petitioner secured first class marks in the two semesters. The third semester as per admitted case of the parties, consisted of 26 weeks period and related to thesis-cum-dissertation. The petitioner was selected for the thesis work after completion of the first and second semesters. The petitioner's case is that due to certain domestic problems and non-sanction of the leave by the sponsoring college, petitioner could not complete the thesis/dissertation work by the end of February 1987 and so in the first week of March 1987, petitioner

approached the respondent 2 with a request for extension of the period of dissertation by three months. The college authorities under the impression that it could not extend the period, forwarded the application of the petitioner to the respondent 1-the University which rejected the request, by its letter dated 27-3-1987 on the ground that there is no provision in the regulations for further extension. Petitioner made second application in June 1987 to reconsider his request and the same was rejected by order/letter dated 7-8-1987. Petitioner's case is that in May 1991, it came to his knowledge that one Sri M.N. Srirangaraju who was similarly placed and who had joined the course on 1-9-1986 and who had to submit his dissertation work by 1-9-1989, made a request for extension of time in May 1990 and was granted nine months" extension beyond the stipulated period. Petitioner's case is, having come to know of that case, the petitioner made another application. The petitioner was informed that petitioner is not eligible to submit the project work on the ground or on the basis of extension granted to Sri M.N. Srirangaraju treating Srirangaraju's case as a precedent. The petitioner's case is that the University adopted two different yardsticks. Petitioner's further case is that the scheme of the study for three semesters does not prescribe an exact cut-off date and that dissertation work commences only after the completion of first and second semesters by having passed in all the subjects in the two semesters. The 26 weeks period had to be counted from 2-11-1985, that is the date on which the result of the second semester was declared declaring the petitioner to have passed in the second semester. The petitioner's case is that as such, the period could at least be extended upto the 2nd of May 1987, but the opposite parties on the mistaken notion of law and the power illegally refused to extend that period which petitioner has only sought for three months" extension.

5. The petitioner's Counsel before me submitted that had that application could have been granted and if at least two months" extension could have been granted, the dissertation work would have been submitted within a period of one year from the date of expiry of 26 weeks" period.

6. In the counter affidavit filed on behalf of the opposite parties, two contentions have been raised. On merits, it has been stated in paragraphs 2 and 3 it has been stated that the petitioner joined M. Tech. Course in Industrial Electronics in the College-respondent 2, the course of study extended in semesters spreading over 78 weeks. The petitioner completed the first semester and also the second semester in August 1985. It has further been stated that admittedly third semester is restricted only for submission of a dissertation/thesis for which 26 weeks period is prescribed in the regulations. It has been mentioned in paragraph 3 that the period of 26 weeks could be extended by the college in the special cases, but in any case not beyond a period of one year from the date of expiry of 26 weeks period. According to the opposite parties, petitioner was expected to submit the dissertation in February 1986 and in normal course, should have submitted the dissertation by February 1987 under the said provisions. But in spite of availing the extension period of one year, according to

the respondents, petitioner failed to submit the dissertation. It has been stated in the counter affidavit that case of Sri M.N. Srirangaraju who was allowed extension of 2 months" time for submission of project work on the recommendation of the committee of academic councils, cannot be the ground for granting the relief claimed, as petitioner"s case is different from that of Sri M.N. Srirangaraju. It has also been alleged that equity cannot be claimed in the matter where the rules and regulations are not followed strictly and it has been emphasised that apart from 26 weeks period, one year"s additional extension period was also exhausted, but petitioner failed to submit his dissertation. So there was no question of further extension. In paragraph 5 of the affidavit which has stated:

"Admittedly the petitioner did not submit the copies of dissertation within time due to his domestic problem and nonavailability of leave from the sponsoring college which are purely of personal nature for which no relief could be sought under the regulations".

The opposite party denied the allegations of discrimination.

7. The first question to be considered is when did the period of 26 weeks expire. It is not the case of the opposite party that 26 weeks period of third semester commences before a student completes second semester. The second semester cannot be deemed to have been completed unless a person passes the second semester. There is Regulation 6.5 which provides that:

"A candidate who has appeared for second semester examination may take up dissertation work. However, it will not be taken up for evaluation unless the candidate has completed all the subjects of first and second semesters prescribed in the Scheme".

A reading of this clause 6.5 quoted above reveals that no doubt a privilege has been given to the candidates to take up dissertation work after having appeared in second semester examination, but he will not be eligible for consideration and evaluation of his thesis unless he has completed and passed in all subjects of first and second semester prescribed in the Scheme. When the dissertation work is of 26 weeks and it is the part of third semester, it means a person is entitled to join ordinarily the third semester or becomes eligible to join third semester on or after having passed in all the subjects of first and second semester course under the Scheme. Reading the two clauses together in my opinion, the 26 weeks period under the regulations is to commence from the date of the candidate"s having completed his first and second semester course, not by simply appearing in the examination, but by having passed in all the subjects of first and second semester as prescribed in the scheme. That being the position, the 26 weeks period is to commence from date of taking the dissertation work or the date of declaration of the result of the candidate who has passed his first and second semesters whichever is later and that being the position in my opinion, the petitioner"s third semester"s 26 weeks period is to commence and is to be

deemed to have been commenced only from the date of declaration of the result, that is November 2, 1985. The period as such if it is counted, then the 26 weeks period was likely to expire on May 2, 1986. Then, one year's extension could be granted for the period upto 2nd May, 1987. It means when the application for extension of time was given, it was within the jurisdiction of the authority, in the circumstances of the case, to have granted extension at least upto May 2, 1987 and not beyond that. But here in this case, the authority illegally refused to grant that extension simply on the erroneous view of law that the period for which the extension could be granted already expired. In such circumstances, the petitioner has no doubt suffered on account of the legally erroneous approach of the respondents 1 and 2 as well. No doubt, the petition has been filed belatedly. But once the petition had been admitted and the appearance had already been put, I do not think it just and proper to dismiss the petition on the ground of laches. Petitioner's case is that he could not get proper advice at that time and when the case of Srirangaraju came to his notice, he made the second application which was rejected later on 1-7-1991. If one person similarly who stands had been granted extension, there is no good ground to reject the other. Specifically in this case when there was two months' period no doubt was available at the time when the application was made, the petitioner could have been granted extension of period from March to 2nd May and particularly when the opposite party in its affidavit, admitted that the cause given by him was admittedly correct as per paragraph 5 of the counter affidavit.

8. In these circumstances, I think it would be proper to allow the writ petition. The writ petition is allowed. The opposite parties are directed to consider the question of giving extension of two months to the petitioner which the petitioner would have been entitled had the opposite parties not illegally rejected his application. Let the petitioner be allowed to submit his dissertation within a period of two months from today and let it be placed for evaluation because for the fault of the opposite parties, petitioner cannot be deprived of that two months' period. Let the direction be issued to the parties to the effect that if the petitioner submits dissertation within a period of two months from today, it should be accepted for consideration and evaluation by the authorities.

Let the copy of this order or at least the operative portion of this order be made available to the petitioner within a period of one week.