

(1993) 02 SC CK 0054

In the Supreme Court Of India

Case No : Civil Appeal No. 573 of 1993

Jawaharlal Nehru University and another

APPELLANT

Vs

Maj. General Y.M. Bammi and another

RESPONDENT

Date of Decision : 09-02-1993

Acts Referred:

Citation : AIR 1994 SC 456

Hon'ble Judges : M. N. Venkatachaliah, J;K. Jayachandra Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We have heard learned Solicitor General for the Jawaharlal Nehru University and Sri N.N. Goswamy, learned senior counsel for the respondents. Special leave granted.

2. This appeal arises out of and is directed against the order dated 30th November, 1992 of the High Court of Delhi in Civil Writ Petition No. 4108 of 1991, quashing certain resolutions of the Academic Council of the Jawaharlal Nehru University which sought to cancel and to withhold the results of a special examination held for a certain Deep Shikha Bammi, a candidate in the 10th semester of the Japanese language course. The High Court directed the publication of the withheld result and the consequential conferment of a Degree of Master of Arts in Japanese language on the said Deep Shikha Bammi.

3. The run of events in the University leading to the litigation is somewhat extraordinary. The somewhat unusual interest evinced by the concerned academic functionaries in advancing the interests of this candidate appears to have compelled the Academic Council of the University to interfere in and set aside an examination held exclusively for the candidate.

After hearing counsel, we find it difficult to sustain either the reasoning of or the conclusion reached by the High Court. We think the Academic Council's resolutions holding the special examination invalid did not call for interference in

judicial review.

4. The facts are these : Deep Shikha Bammi, daughter of Major General Y.M. Bammi (who brought the writ petition before the High Court on her behalf), was a student of Japanese language in the center of East Asian Languages in the Jawaharlal Nehru University. On successful completion of 6 out of 10 semesters she would become entitled to the Degree of Bachelor of Arts. Successful completion of the next four semesters i.e. 7th, 8th, 9th and the 10th would entitle her to the conferment of a Master's Degree. The evaluation of performance of each semester includes an assessment of the sessional performance as well as marks obtained at the examination to be held at the end of each semester. The evaluation is thus in two parts-one consisting of sessional evaluation to the extent of 50% and the other marks obtained at the examination for the other 50%.

It is not disputed Deep Shikha Bammi after completing the six semesters also satisfactorily completed the 7th, 8th and 9th semesters. She also satisfied the sessional requirements of the tenth semester. The sessional assessment for the tenth semester was available. She had to take and pass the 10th semester examination in April 1991 to attain eligibility for the Master's degree. She appears to have secured an opportunity for further education in Japan and had to leave India before the tenth semester examination. The Chairman of the center without permission of the University evolved a method of his own to meet the special requirements of this candidate and held a special examination for her benefit in March, 1991, well ahead of the regular 10th semester examination which was due to be held in April 1991.

The validity and propriety of this procedure was examined by the Academic Council of the Jawaharlal Nehru University. That academic authority, apparently, was not impressed with either the bona fides, or the wisdom, the legality or the propriety of the action taken by the Chairman of the center. The Academic Council decided not to recognise that examination as a valid one entitling Deep Shikha Bammi to the conferment of a degree on the basis of her performance at that special examination. The results of the said special examination were directed to be withheld. The decision on the part of the Academic Council was assailed in the writ petition brought by her father on her behalf.

5. Pursuant to certain interlocutory orders made by the High Court, the candidate again attended some of the classes of the tenth semester of 1992 and sat for the regular examination of the 10th semester held in 1992. The Academic Council, again considered the matter but by their resolution dated 1-5-1992 did not consider her eligible to the conferment of the M.A. Degree, on the basis of the examination held in 1992. The objection appears to have been that while the sessional requirements pertained to the academic year 1991, the tenth-semester examination taken by her related to 1992. Apparently, the Academic Council was of the view that both the sessional requirements and the examination should coalesce in the same semester.

6. The High Court, however, was persuaded to the view that the stand of the Academic Council in this regard was technical and that the candidate who had completed her sessional obligations in 1991 and had actually taken tenth semester examination in 1992 would be eligible for the degree and that there was no justification to deny her such eligibility.

7. It appears to us that the stand taken by the Academic Council was supportable on basis of the rules guiding the matter. The Rules required that for a satisfactory completion of a semester, the sessional requirements and the examination should relate to the same semester and any deviation therefrom would introduce disparate and non-comparable parameters in evaluation. This is purely an academic perception in which the judicial role is obviously limited. We are unable to subscribe to the view taken by the High Court in the matter. In our opinion, the Academic Council could not be faulted in its insistence on following the procedure and in declining to create an exception in the case of a particular candidate. It is such departures from strict adherence to the rules that expose the academic system to disrespect and discredit.

8. In the result, we allow this appeal, set aside the judgment of the High Court under appeal and dismiss the writ petition filed by the respondent without, however, an order as to costs.

9. But this should not be the end of the matter for relief to this candidate on compassionate grounds if it were legally permissible otherwise. It would appear that the Academic Council, under Clause 12, Ordinance 14, has the power to relax the requirements. This could be exercised in fit and appropriate cases. Consistent with its stand results of the tenth semester held in April 1992 were not relatable to the tenth semester session of 1991 and, that, therefore, the candidate could not be given the benefit, of that examination, the Academic Council could consider whether for the purposes of tenth semester-examination a substituted evaluation could be made respecting the 50% of marks set-apart for the examination on the basis of her performance in the earlier three semesters, namely, the seventh, the eighth and the ninth. The evaluation of the other fifty per cent respecting the sessional assessments of the tenth semester, it is not disputed, is available and is not in controversy.

10. If the Academic Council can find a way, it would enable the candidate to retain the benefit of her selection to the course in Japan. We direct the Academic Council to consider this aspect and take a view which may appear to it to be just in special facts and circumstances of this case. We make it clear that any decision that the University may take pursuant to this direction will not be a precedent.

11. Liberty to mention.