
(2009) 01 DEL CK 0246

In the Delhi High Court

Case No : Writ Petition (C) 3502 and 3503 of 2008

Kavita and Asha and Others

APPELLANT

Vs

SCERT and Another

RESPONDENT

Date of Decision : 27-01-2009

Acts Referred:

Citation : (2009) 01 DEL CK 0246

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : Ashok Agarwal and Mannu Mohan and Nikhil Bhalla, for R.K. Saini, for the Appellant; Latika Chaudhury and Saurabh Chadda for Avnish Ahlawat, for the Respondent

Final Decision : Disposed Off

Judgement

S. Ravindra Bhat, J.—The petitioners were admitted to the two years Elementary Teacher Education (ETE) Course leading to a diploma, by the State Council of Education Research & Training (SCERT). It is not disputed that they were promoted to the 2nd year of the course. At the stage when they had to attempt 2nd year examination, SCERT detained them on grounds of inadequate attendance.

2. The petitioners contend that neither the prospectus nor the norms applicable for the course clearly spell out any requirement of candidates attempting the 2nd year examination having to attend 85% of the classes. Learned Counsel point to paras 2, 3 & 5 of the brochure and contend that each of them specifically deal with the attendance norm for the first year; the SCERT in the circumstances cannot apply the same yardsticks and insist upon candidates attending minimum 85% of the classes.

3. Learned Counsel for the respondents contends that paras 2&5 make it amply clear that the concerned student has to attend 85% of the classes. She also points to the chapter General Information, which is at para XV (6) in support of

the submission that the norms require that students should attend 85% of all the classes.

4. Since there is hardly any dispute on the facts, it would be necessary to notice the relevant norms. The rules applicable for teacher trainees studying in ETE diploma course, contained the attendance norms rules are as follows:

The rules applicable for teacher trainees studying in ETE diploma course:

1. Students while pursuing ETE Diploma cannot pursue any other course with it, be it Regular full time/Regular Part time/Correspondence/Any other. If at any stage, it is found that any student is pursuing/has pursued other course simultaneously, his/her admission ETE Diploma shall stand cancelled.

2. Students shall not be allowed to appear in the theory examinations in case their attendance is less than 85% attendance of the session. These students will not be promoted to IInd year. They will have to seek readmission in Ist year. Relaxation of 5% in shortage of attendance can be granted by the Principal of institute and additional relaxation of 10% shortage in attendance may also be granted by Director, SCERT on medical ground or extra ordinary circumstances on the merit of the case.

3. If a candidate is continuously absent for six days without a valid reason, his/her name will be struck off from the rolls by the Principal DIET/Institute under information to Examination Branch, SCERT.

4. Students shall not be promoted to IInd year course if they have got reappear in more than 4 papers of Ist year course.

5. Students shall not be promoted from Ist year to IInd year course if they have missed their SEP (School Experience Programme) or have less than 85% attendance after relaxation or have secured less than 50% marks in SEP.

6. Supplementary exams will be held within 30-45 days of declaration of result. If any candidate does not clear his/her reappear papers in supplementary exams, candidate will be reverted back to the Ist year again.

5. Para 15 which is General Information to applicant/students, provides, by Clause 6 is as follows:

6. Since ETE is a professional course, regularity of attendance in the classes/seminars/workshops/camps and other activities is essential and 85% attendance is compulsory. If a candidate is continuously absent for six days without a valid reason, his/her name will be struck off.

6. The argument of the petitioners appears to be that there is no attendance norm applicable for 2nd year student and that the respondent could not have detained them for not fulfilling the 85% attendance criteria spelt in paras 2&5 because both these norms specifically referred to promotion from first year to second year.

7. This Court in another batch of cases (Renu Vashisht v. State of NCT of Delhi and Anr. W.P. (C) 2735/2007 with connected matters) decided on 20.8.2007 had emphasized the necessity of applying attendance norms on an uniform basis and had upheld the interpretation placed. Although, the context of those cases were the attendance norms vis-?-vis candidates having to qualify in the SEP, yet the logic underlying that judgment would apply with equal vigor in this case. This is so because Note 6 of the General Condition, which is a part of the same document relied upon by the petitioners, clarifies that since the ETE is a professional course, students have to fulfill the attendance norm of 85%. In any event, a joint reading of paras 2 & 5 also bears out this aspect. At the same time, the Court is mindful of the fact that there can be some room for doubt as to the circumstances where the exemption from attendance can be granted. Those circumstances cannot be any different in the case of first year and have to be same even in the case of second year that the Principal has a discretion to waive attendance norms to the extent of 5% and Director, SCERT has a similar authority to waive attendance requirement to the extent of 10% on the ground spelt out in Clause 3.

8. It was submitted by counsel that during the pendency of these proceedings, the petitioners have enrolled in the 2nd year. In such an event, their case for appearing in the examination to be held in 2009 shall be considered having regard to the norms; in case it is permissible to set off the previous attendance, the respondent shall consider their request in an appropriate manner.

The Writ Petitions are disposed in the above terms.