
(2008) 07 AP CK 0065

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11757 of 2008

M. Rasaghnya Chowdary

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 07-07-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 6 ALD 93 : (2008) 6 ALT 91

Hon'ble Judges : B. Seshasayana Reddy, J

Bench : Single Bench

Advocate : P. Venugopal, for the Appellant; GP, for Medical Health and Fami. Welfare, for the Respondent

Final Decision : Dismissed

Judgement

B. Seshasayana Reddy, J.—This writ petition has been filed by M. Rasaghnya Chowdary with a prayer to issue a Writ of Mandamus declaring the action of Dr. NTR University of Health Sciences, Vijayawada in not properly evaluating her answer scripts in respect of examination of 1st year MBBS course in two subjects; viz., Anatomy and Physiology held in March 2008 as illegal, arbitrary and violative of Article 226 of the Constitution of India.

2. The petitioner joined in 1st year MBBS course in the month of August 2005 in S.V. Medical College, Tirupati, Chittoor. She wrote 1st year examinations in the month of September, 2006 in two subjects, i.e. Biochemistry and Anatomy and could not write examination in one subject i.e. Physiology. The results were declared in the month of December, 2006 and she was declared as failed in both the subjects i.e. Biochemistry and Anatomy with 2 and 26 marks respectively. She applied for re-totalling by paying the requisite fee. She was allowed to participate in the process of retotaling on 28.12.2006. She noticed certain discrepancies in calculation of marks with regard to Biochemistry subject. She appeared for the examination in May 2007 in all the three subjects of 1st year i.e. in Biochemistry, Anatomy and Physiology. She was awarded 12 marks in

Biochemistry, 5 marks in Anatomy and 4 marks in Physiology. She once again applied for retotalling for which she was asked to appear before the authorities on 28.8.2007 wherein she noticed certain discrepancies in the manner in which the papers were evaluated and marks were awarded. She made a representation to 2nd respondent bringing forth the discrepancies in evaluation and awarding marks. But the University did not respond. She once again appeared in the examination held in March, 2008. Results were announced in the month of May, 2008 wherein she was declared passed in Biochemistry with 78 marks and failed in Anatomy and Physiology with 3 and 18 marks respectively. She made a representation on 12.5.2008 under Right to Information Act for supply of xerox copies of answer sheets. She attended on 28.5.2008 for retotalling in the University campus. It is her contention that the examiner had not properly evaluated her answer scripts. In the affidavit filed in support of the petition she detailed the questions and marks awarded by the examiners. Her grievance is that her answer scripts were not properly evaluated and therefore they are required to be re-evaluated. For better appreciation, I may refer para 6 to 10 of writ affidavit, which read as under:

6. For proper appreciation of my case, I submit the following:

In Anatomy Paper I, for which the maximum marks is 50, 2 questions of 10 marks each respectively, which I have written very well, I was awarded 7 and 5 marks respectively, and with regard to the 5 short notes of 4 marks each totaling 20 marks, I was awarded marks in the following manner:

Question No. 3 - 2 marks Question No. 4 - 1 1/2 marks Question No. 5 - 2 1/2 marks Question No. 6 - 1 mark Question No. 7 - 1 1/2 marks

With regard to the subsequent questions 8 to 12, for which 2 marks to be given totaling 10 marks, marks were awarded in the following manner:

Question No. 8 - 1 1/2 marks Question No. 9 - 2 marks Question No. 10 - 0 marks Question No. 11 - 0 marks Question No. 12 - 1/2 marks

I submit that in the above question Nos. 10 and 11, I have written very well and there is no question that 0 marks could be awarded to them.

7. I submit that with regard to Anatomy Paper - II, for which the maximum marks is 50, 2 questions of 10 marks each respectively, which I have written very well, I was awarded 4 and 3 1/2 marks respectively. I submit that these two major questions carrying 10 marks each was very well written by me and that awarding of 4 marks and 3 1/2 marks is not at all justifiable. With regard to the 5 short notes of 4 marks each totaling 20 marks, I was awarded marks in the following manner:

Question No. 3 - 2 marks Question No. 4 - 1 mark Question No. 5 - 0 marks Question No. 6 - 1 1/2 marks Question No. 7 - 2 marks

I submit that with regard to the question No. 5, i.e. write short notes on "Hila of

the Lungs", which was written by me correctly, awarding of "0" marks is totally unjustifiable.

With regard to the subsequent questions 8 to 12, for which 2 marks to be given totaling 10 marks, marks were awarded in the following manner:

Question No. 8 - 1 1/2 marks Question No. 9 - 1 1/2 marks Question No. 10 - 1 1/2 marks Question No. 11 - 1/2 marks Question No. 12 - 1/2 mark

8. I submit that with regard to the Physiology Paper I, for which the maximum is 50, 2 questions of 10 marks each respectively, which I have written very well, I was awarded 7 and 2 marks respectively, and with regard to the 5 short notes of 4 marks each totaling 20 marks, I was awarded marks in the following manner:

Question No. 3 - 0 marks Question No. 4 - 4 marks Question No. 5 - 1 mark Question No. 6 - 1 1/2 mark Question No. 7 - 0 mark

I submit that with regard to the question No. 3, i.e. write short notes on "Factors influencing coronary blood flow", which was written by me very well, awarding of "0" marks is totally unjustifiable. I submit that with regard to the question No. 7, i.e. write short notes on "P-R interval significance", which was written by me very well, awarding of "0" marks is totally unjustifiable.

With regard to the subsequent questions 8 to 12, for which 2 marks to be given totaling 10 marks, marks were awarded in the following manner:

Question No. 8 - 1/2 marks Question No. 9 - 1/2 marks Question No. 10 - 1/2 marks Question No. 11 - 1 mark Question No. 12 - 2 marks

9. I submit that with regard to Physiology Paper-II, for which the maximum marks is 50, 2 questions of 10 marks each respectively, which I have written very well, I was awarded 1 1/2 for both the answers i.e. Question Nos. 1 and 2. I submit that these two major questions carrying 10 marks each were very well written by me and that awarding of 1 1/2 mark for each answer is not at all justifiable. With regard to the 5 short notes of 4 marks each totaling 20 marks, I was awarded marks in the following manner:

Question No. 3 - 1 mark Question No. 4 - 1 1/2 mark Question No. 5 - 0 marks Question No. 6 - 1/2 mark Question No. 7 - 0 marks

I submit that with regard to the question No. 5, i.e. write short notes on "Otolith Organs", which was written by me very well, awarding of "0" marks is totally unjustifiable.

With regard to the subsequent questions 7 i.e. write short notes on "Taste Pathway", which was very well written by me, awarding of "0" marks is totally unjustifiable.

With regard to the subsequent questions 8 to 12, for which 2 marks to be given totaling 10 marks, marks were awarded in the following manner:

Question No. 8 - 0 marks Question No. 9 - 0 marks Question No. 10 - 0 marks Question No. 11 - 0 marks Question No. 12 - 0 marks

10. I submit that in Physiology Paper II for questions 8 to 12, carrying 10 marks i.e. 2 marks each respectively, awarding "0" marks is totally unjustifiable, arbitrary and illegal, inasmuch as the said act was done deliberately for the reasons best known to the authorities.

3. The respondents filed counter affidavit. One Dr.T.Venugopala Rao has sworn to the counter affidavit. It is stated in the counter affidavit that the request of the petitioner for retotalling was considered and retotalling was done in her presence on 28.5.2008. Apart from that the answer scripts were also checked by a Committee of two Professors who found after verification that all the questions were evaluated and marks were allotted. The award of zero marks depends on the assessment made by the concerned examiner and therefore the petitioner is not correct in contending that awarding "zero" marks is unjustified.

4. When the writ petition came up for admission learned Standing Counsel appearing for 2nd respondent received notice and sought time for counter. The 2nd respondent was directed to produce the answer scripts of the petitioner. In compliance of the direction of this Court, learned Standing Counsel appearing for 2nd respondent placed on record the answer scripts of the petitioner on 23.6.2008. The petitioner was permitted to go through the answer scripts.

5. Heard learned Counsel appearing for the petitioner and learned Standing Counsel for 2nd respondent.

6. Learned counsel appearing for the petitioner submits that the answer scripts of the petitioner in two subjects (Anatomy and Physiology) were not properly evaluated and therefore they are required to be re-evaluated. He further submits that though the petitioner gave correct answers to some of the questions in the two subjects, the examiner awarded zero marks and it would show that the evaluation was not proper. He placed reliance on the decision of a learned single Judge of this Court in W.P. No. 4805 of 2007 disposed of on 23.4.2007 (Narasimha Nakkararanti v. Government of A.P. rep. by its Principal Secretary, Medical and Health Family Welfare Department, Hyderabad). In the cited case no proposition of law has been laid down and the writ petition came to be disposed of since the respondents therein got the answer scripts of the petitioner evaluated by another examiner. For better appreciation I may refer the relevant portion of the order in the cited case and it is thus:

In view of the specific averments of the petitioner, this Court had called for the answer scripts of the petitioner and the same were produced by the learned Counsel appearing for the respondents. On scrutiny of the answer scripts of the petitioner, for every question, marks awarded initially were struck off and reduced marks were awarded. When this was asked to explain, the Registrar was addressed by the said evaluator, by name, Sri. Dr.S.Ziauddin of Government Unani Medical College, Basaveshwarnagar, Bangalore. A copy of the said

explanation is placed before this Court. In the said explanation/report, it is stated by the said evaluator that "as per my habit of reviewing the answer scripts after allotting marks, I found that the earlier awarded marks for question Nos. II, IV and V were more than the candidate deserve. So in all fairness, I reduced the marks to question No. II, IV and V to ten marks for each answer". As much as the said report was placed before this Court to clear the doubt of the petitioner, when this Court observed that the student should not be kept in dark as to why initially awarded marks were reduced, the respondents have got the answer script evaluated by another evaluator. When the matter is called today, it is submitted by the learned Standing Counsel appearing for the respondents that the answer script of the petitioner was valued by another evaluator, who had awarded higher marks than the marks awarded on the earlier occasion. In that view of the matter, without further going into the matter, I dispose of the writ petition directing the respondents to issue revised marks memorandum in the subject of Amrax-E-Ain (ENT) paper A & B basing on the marks awarded in the revised evaluation.

7. Coming to the facts of the case on hand, it is not the case of the petitioner that originally the evaluator awarded marks and subsequently reduced the same. Therefore, the cited decision is of no help to the petitioner.

8. Learned Standing Counsel appearing for 2nd respondent submits that the answer scripts of the petitioner in two subjects were got evaluated by qualified examiners who have necessary proficiency in the field of evaluation of answer scripts. The answer scripts were also checked by a Committee of two Professors who found after verification that all the questions were valued and marks were awarded and therefore the request of the petitioner for revaluation is impermissible.

9. The question for consideration in this writ petition is - whether the relief sought for by the petitioner with regard to revaluation of the answer scripts in question can be considered?

10. This issue is no more res-integra in view of the Division Bench judgment of this Court in Mullah Taher Ali Vs. Registrar, NTR University of Health Sciences, , wherein it is held that in the absence of any statutory provision for revaluation of answer scripts Court cannot order for revaluation on the doubts expressed by the candidates.

11. It is well settled that awarding zero marks do not amount to improper evaluation of the answer scripts. When a Committee comprising of two Professors of the same subject checked the answer scripts and found that all the questions were properly evaluated, it is impermissible for the petitioner to contend that the answers wrote by her were correct and she was entitled to award marks.

12. For the foregoing reasons, this writ petition is devoid of merits and the same is dismissed. No order as to costs.