
(1996) 02 P&H CK 0132

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10665 of 1994

Manoj Kumar Rath

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 23-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 113 PLR 35

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : S.K. Patri, for the Appellant; R.N. Raina, Dy. A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—This is petition for issue of mandamus to the respondents to relax the attendance of the petitioner by 2% and to allow him to take admission in third semester of the Course of Production Engineering.

2. In brief, the facts of the case are that the petitioner, who hails from Orissa, was admitted to the First semester of the Course of Production Engineering at Government Institute of Engineering. Sonepat, in September, 1993. He successfully passed the first semester examination. While going to Orissa at the end of examination, the petitioner fell sick at Delhi and was treated at Delhi between 15.2.1994 and 28.2.1994. His attendance in second semester fell short by 2% and the Principal of the Institution refused to admit him to the second semester examination which was to be held between 24.6.1994 and 11.7.1994. The petitioner says that refusal of the respondent No. 3 to allow him to appear in the second semester examination is wholly arbitrary and unreasonable because in similar cases relaxation upto 10% has been given to make up the shortage of the attendance and there is no reason or rhyme to deprive the petitioner of the similar benefit. He has pleaded that the respondents have discriminated him vis-a-vis similarly situated persons.

3. In their reply, respondent Nos. 1 to 3 have stated that every student is required to obtain atleast 75% attendance in theory, tutorial and practical separately and-minimum 50% marks in sessional to become eligible to appear in the examination and as the petitioner has not secured the required percentage of the attendance, the Principal decided not to allow him to undertake the second semester examination. The respondents have pleaded that the provisions contained in the prospectus are binding on the candidates and, therefore, the petitioner is not entitled to any relaxation. In answer to the plea of discrimination, the respondents have pleaded that relaxation was granted to some students during the year 1992-93 but the petitioner who has been admitted during the year 1993-94 cannot claim similar treatment.

4. I have heard learned counsel for the petitioner and the learned Deputy Advocate General and perused the record of the case.

5. There is no controversy between the parties that the Prospectus issued by the respondents lay down the requirement of 75% attendance as a condition precedent to the admission of a candidate to any examination and also that the petitioner could not complete 75% attendance for appearance at the second semester examination. There is also no dispute between the parties that the petitioner fell sick and this is the main reason that he could not complete 75% attendance.

6. Shri Raina tried to distinguish the case of the petitioner from the cases of Pankaj Gupta and Rajesh Kumar on the ground that relaxation of 10% of attendance was granted to these candidates during the 1992-93 and the petitioner has been admitted to the course commencing in September, 1993 and, therefore, he cannot claim parity with the students of the previous year. This reason, in my opinion, is wholly irrelevant for the purpose of judging the fairness of the action of the respondents. Learned Deputy Advocate General had to concede that there is no provision for relaxation in the Prospectus of 1992-93 and also in the Prospectus of the year 1993-94. Therefore, it does not appeal to reason that inherent power of relaxation could be exercised for the students who took admission during the year 1992-93 but similar benefit cannot be given to the petitioner who took admission in the year 1993-94. In my opinion, refusal of the petitioners to grant relaxation to the petitioner is wholly arbitrary and discriminatory and the petitioner's right of equality has been violated.

7. For the reasons mentioned above, the writ petition is allowed and the decision of the respondents to debar the petitioner from appearing in the examination of second semester of the Course of Production Engineering is declared illegal. Principal, Government Institute of Engineering, Sonapat, is directed to allow the petitioner to continue with his study in sixth semester and also to declare the result of the petitioner's examination of second to fifth semesters. Copy of this order be given Dasti to the counsel for the petitioner on payment of requisite charges.