

(2005) 10 DEL CK 0014

In the Delhi High Court

Case No : Writ Petition (C) No. 18268 of 2005 and CM No. 11927 of 2005

Miss Shefali Pathak

APPELLANT

Vs

Indian Institute of Technology

RESPONDENT

Date of Decision : 25-10-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2006 Delhi 66 : (2005) 124 DLT 617 : (2005) 85 DRJ 196

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Jayant Bhushan, Sudhir Nandrajog and C.Mohan Rao, for the Appellant; Maninder Singh, Ranjit Singh and Girish Mishra, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—The short question is whether the Petitioner has completed her 'Practical Training', which is an essential concomitant of the curriculum for the Bachelor of Technology in Chemical Engineering (B.Tech) from the globally acclaimed and prestigious Indian Institute of Technology, Delhi. The fall-out of a finding in the negative is that the Petitioner may become ineligible to pursue further studies in the Indian Institute of Management, Lucknow to which she has gained admittance. It has been heavily emphasized by learned counsel for the Petitioner that she is a brilliant student; and this fact has not been controverted by learned counsel for the Respondent.

2. Annexure P1 is a copy of the "Instructions to students deputed for practical training during summer - 2005." The training is compulsory for pre-final year students. It has been specifically stated that the declaration of the Final Year results will depend on the satisfactory completion of this training. It has further been notified that the Certificate issued in this respect should not be handed over to the student concerned, which is exactly what has happened in this case.

3. The subject Practical Training ought to have been completed by the Petitioner

in the pre-final year i.e. the third year being the previous year. It appears that this could not be done by her as she was allegedly unwell. The Respondent had exercised discretion in favor of the Petitioner by permitting her to complete the practical training during the summer of 2005 so as to be eligible for declaration of her Final Year results.

4. Annexure P1 clarifies that the Practical Training should be for 50 working days commencing from 16th May, 2005. It has also been mentioned that training less than 30 working days at a stretch in an industry will not be treated as valid. This had been construed by learned counsel for the Petitioner to convey that the 50 working days stipulation is not inflexible. This, however, ignores the next sentence which clarifies that the 20 working days would have to be completed in some other manner in case because of any reason training is not completed in the stipulated manner. Note 1 of paragraph 13 of Annexure P1 reads as follows:

"NOTE-I

Duration of Training: Most of the industries in the country work from Monday through Saturday and cover a period of 48 hours per week. The stipulated period of 50 working days is applicable to such industries. A few industries, however, work for five days a week to cover this period from Monday through Friday. In such cases only, students are advised to obtain a certificate from the concerned industry indicating that they work from Monday through Friday and that the student has undergone 400 working hours training (with minimum of 8 weeks) during the subject period. In such cases the period of 50 working days will be proportionately reduced. The above is not applicable to overtime or unscheduled working by students in training organisations."

This Note has been interpreted in disparate manner by learned counsel for the parties. In my opinion, on a reading thereof the prescription of 50 working days has not been undermined or diluted. The last sentence which speaks of overtime and unscheduled working clarifies that the 400 working hours should not be condensed into less than 50 working days. This is for good reason as will be evident from the observations in this context of the Hon''ble Supreme Court in Madhu Singh's case (infra).

5. The certification of the Petitioner's practical training mentions its commencement to be on 17th May, 2005 and completion on 26th June, 2005, aggregating of 40 days attended by the Petitioner, being 10 hours 7 days a week including Sundays and other Holidays. In other words, the Petitioner has worked for this entire period without any break which would necessarily include unscheduled working. Annexure P2 is the Petitioner's application for Private Training which mentions the training period from 17th May, 2005 to 8th July, 2005 (total 50 working days). This period actually adds up to 53 days and that is understandably because there are three Sundays falling within it. The application signed by the Petitioner, Therefore, leaves no manner of doubt of how the training period was calculated. Despite this fact, for no reason has been proffered

other than that the Petitioner had to leave for Lucknow on 29th June, 2005.

6. As has already been noted above the Certificate ought to have been dispatched by Surya Chemical Industries, where the practical training had been undergone by the Petitioner, directly to IIT. This has not been done. The Petitioner asserts that she had obtained the approval of the "Hd, T & P, IIT" Delhi on 28th June, 2005. These signatures, however, have been denied.

7. The impugned Order is Annexure P6 and reads as follows:

"Department of Chemical Engineering

June 29, 2005

Ms. Shefali Pathak is taking training in Surya Chemical Industries, Ahmedabad from May 17th to July 8th, 2005 as per the records. Most of the students are taking training from May 17th to around July 16th, 2005. In view of the special circumstances, she has been allowed to complete the training by July 8th, 2005, keeping in view the requirement of minimum 8 weeks to complete 50 working days or 400 hours of satisfactory training.

Ms. Shefali Pathak claims that she has taken training for 40 days between 17th May to 26th June, 2005 at the rate of 10 hours per day including Saturdays and Sundays as working days. This fails short of the requirement of minimum period of 8 weeks and flouts the spirit of the requirement. If allowed, most students can complete the practical training requirement in less than a month without having to wait 50 working days. Recognising such an eventuality only eight week minimum period is prescribed.

In view of this, Ms. Shefali Pathak is hereby advised to return to her training place and complete the required 8 weeks of training.

Sd/- (illegible)

(D. Subbarao)

Head of Deptt.

Copy to-

1. Ms. Shefali Pathak
2. Dean (UGS)
3. Head, T&P"

8. A representation made by the Petitioner's father in response to which the Head of Department, Chemical Engineering Department, IIT, Delhi had requested the Petitioner "to undertake practical training for a minimum period of 20 working days to complete the training requirement in the same organisation or anywhere else after getting approval from the Department." This advice has not been complied with.

9. The Hon''ble Supreme Court has abjured interference by the Court in academic matters. So long as there are no allegations of bias or mala fides, even principles akin to audi alteram partem have been found to be inapplicable in all its rigours. Although this question has not been raised by learned counsel for the Petitioner, I think it appropriate to mention primarily to highlight the narrow compass of judicial review in academic matter. In *Jawaharlal Nehru University Vs. B.S. Narwal*, .

"8. The first question for our consideration is whether the respondent was entitled to an opportunity of being heard before action was taken removing him from the rolls of the University. What should be mentioned right at the outset is that this is not a case of expulsion of a student pursuant to a claim, by the authorities of a University, to discipline the student at their discretion and the right of the student to freedom and justice. The case is merely one of assessment of the academic performance of a student which the prescribed authorities of the University are best qualified and the courts, perhaps, are least qualified to judge. Nor can there be any question of any opportunity to be heard being given. One does not hear of a claim to be heard when a candidate fails to qualify at any aptitude or intelligence test, written or oral. When duly qualified and competent academic authorities examine and assess the work of a student over a period and declare his work to be unsatisfactory we are unable to see how any question of a right to be heard can arise. The duty of an academic body in such a case is "to form an unbiased assessment of the student's standard of work based on the entirety of his record and potential". That is their function. The very nature of the function of academic adjudication (if the use of the word adjudication is permissible in the context) appears to us to negative any right to an opportunity to be heard. If the assessment by the academic body permitted the consideration of "non-academic" circumstances also, a right to be heard may be implied. But if the assessment is confined to academic performance, a right to be heard may not be so implied. Of course, if there are allegations of bias or mala fides different considerations might prevail, but in the absence of allegations of bias or mala fides we do not think that the declaration by an academic body that a student's academic performance is unsatisfactory, is liable to be questioned in a court on the ground that the student was not given an opportunity of being heard. Large and expanding, perhaps rightly, as the field of natural justice and fair dealing is, necessary and wholesome as "hearing" an affected party even by academic bodies is, there are limits to attempt at unnatural extensions of the doctrine of "audi alteram partem". Without granting absolutism to academic authorities even in academic matters, we think this case hardly calls for judicial intervention."

10. Judicial review in academic matters has perforce a very limited ambit, since even some tenets of natural justice need not be meticulously observed. Interference with a decision taken by an academic authority, after due consideration of all the questions raised, would thus become a rarity. In *Krishna Priya Ganguly and Others Vs. University of Lucknow and Others*, , the Supreme

Court had observed that while exercising power under Article 226 of the Constitution, the High Court cannot ignore the Rules framed by the Admission Committee; nor can it devise and enforce its own criterion pertaining to Admissions, as these decisions must be left to the concerned academic body. A caution had been sounded in *C.B.S.E. and Another Vs. P. Sunil Kumar and Others*, against granting relief on 'sympathetic or humanitarian grounds', a pitfall into which I was about to fall and which, I must confess, I was likely to succumb to, as would any other Judge faced with the prospects of giving a stringent decision against a young student.

11. In *Medical Council of India Vs. Sarang and Others*, , the Supreme Court had recorded the following enunciation of law-

"In matters of academic standards, courts should not normally interfere or interpret the rules and such matters should be left to the experts in the field. This position has been made clear by this Court in *University of Mysore v. C.D. Govinda Rao*, *State of Kerala v. Kumari T.P. Roshana and Shirish Govind Prabhudesai v. State of Maharashtra*. The object of the said Regulation appears to be that although the course of study leading to the IInd professional examination is common to all medical colleges, the sequence of coverage of subjects varies from college to college. Therefore, the requirement of 18 months of study in the college from which the student wants to appear in the examination is appropriately insisted upon. Migration is not normally allowed and has got to be given in exceptional circumstances. In the absence of such a stipulation as contained in Regulation 6(5), it is clear that the migrated student is likely to miss instruction and study in some of the subjects, which will ultimately affect his academic attainments. Therefore, the strained meaning given by the High Court, which actually changes the view taken by the High Court and state that the correct interpretation is as given by the Medical Council of India, set forth above by us.

12. In *Medical Council of India Vs. Madhu Singh and Others*, , Justice Arijit Pasayat speaking for the Bench had rejected the suggestion that extra classes can be taken to accommodate midstream admissions. His Lordship observed that the "time schedule is fixed by taking into consideration the capacity of the student to study and the appropriate spacing of classes. The students also need rest and the continuous taking of classes with the object of fulfilling the requisite number of days would be harmful to the students" physical and mental capacity to study."

13. In the background of these pronouncements by the Highest Court of land, I find no alternative but to reject the Writ Petition, even if a purposive interpretation is imparted to the rules pertaining to practical training, as Shri Jayant Bhushan, learned Senior Counsel appearing for the Petitioner, has advocated should be done predicated on the observations of the Hon"ble Supreme Court in *M/s. Oxford University Press etc. Vs. Commissioner of Income Tax*, which reads as follows:

58. This Court noticed the basic principle of interpretation of statutory provisions. Noticing the words of Judge Learned Hand, it was said that the task of interpretation of a statutory enactment is not a mechanical task. It is more than a mere reading of mathematical formulae because few words possess the precision of mathematical symbols. We must not adopt a strictly literal interpretation of Section 52(2) but construe its language having regard to the object and the purpose which the legislature had in view in enacting the provision and in the context of the setting in which it occurs. The literal construction would lead to manifestly unreasonable and absurd consequence. It is well-recognised rule of construction that a statutory provision must be so construed, if possible, that absurdity and mischief may be avoided. It was held that construction suggested on behalf of the Revenue would lead to a wholly unreasonable result which could never have been intended by the legislature. It was said that the literalness in the interpretation of Section 52(2) must be eschewed and the court should try to arrive at an interpretation which avoids the absurdity and the mischief and makes the provision rational, sensible, unless of course, the hands of the court are tied and it cannot find any escape from the tyranny of literal interpretation. It is said that it is now well-settled rule of construction that where the plain literal interpretation of a statutory provision produces a manifestly absurd and unjust result which could never have been intended by the legislature, the court may modify the language used by the legislature or even "do some violence" to it, so as to achieve the obvious intention of the legislature and produce a rational construction. In such a case the court may read into the statutory provision a condition which, though not expressed, is implicit in construing the basic assumption underlying the statutory provision. Bearing in view these principles the court held that on a fair and reasonable construction of Section 52(2) the court would read into it a condition that it would apply only where the consideration for the transfer is understated or in other words, the assessed has actually received a larger consideration for the transfer than what is declared in the instrument of transfer and it would have no application in case of a bona fide transaction where the full value of the consideration of transaction is correctly declared by the assessed. Thus, a condition though not expressed, was read into Section 52(2) Constituting the basic assumption underlying the said sub-section.

60. Eschewing the literal interpretation, this court held that where Section 16(3) of the Act operates, the profit or loss from a business of the wife or minor child included in the total income of the assessed should be treated as the profit or loss from a "business carried on by him" for the purposes of carrying forward and set off such losses u/s 24(2) of the Act. The relevant provisions of sub-section (2) of Section 24 material for the purpose of Gotla case as reproduced therein are as under:

"24. (2) Where any assessed sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on 31-3-1940, in any business, profession or vocation, and the loss

cannot be wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessed had no other head of income shall be carried forward to the following year, and

(i) where the loss was sustained by him in a business consisting of speculative transactions, it shall be set off only against the profits and gains, if any, of any business in speculative transactions carried on by him in that year;

(ii) where the loss was sustained by him in any other business, profession or vocation, it shall be set off against the profits and gains, if any, of any business, profession or vocation carried on by him in that year: provided that the business, profession or vocation in which the loss was originally sustained continued to be carried on by him in that year; and

(iii) if the loss in either case cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following years and so on but no loss shall be so carried forward for more than eight years."

Interpreting the aforesaid provisions, it was said : (SCC pp.359-60, paras 47-48)

"47. We have noted the object of Section 16(3) of the Act which has to be read in conjunction with Section 24(2) in this case for the present purpose. If the purpose of a particular provision is easily discernible from the whole scheme of the Act which in this case is, to counteract the effect of the transfer of assets so far as computation of income of the assessed is concerned then bearing that purpose in mind, we should find out the intention from the language used by the legislature and if strict literal construction leads to an absurd result i.e. result not intended to be subserved by the object of the legislation found in the manner indicated before, and if another construction is possible apart from strict literal construction then that construction should be preferred to the strict literal construction. Though equity and taxation are often strangers, attempts should be made that these do not remain always so and if a construction results in equity rather than in injustice, then such construction should be preferred to the literal construction. Furthermore, in the instant case we are dealing with an artificial liability created for counteracting the effect only of attempts by the assessed to reduce tax liability by transfer. It has also been noted how for various purposes the business from which profit is included or loss is set off is treated in various situations as assessed's income. The scheme of the Act as worked out has been noted before.

48. In view of the aforesaid and in view of the attitude of the law-makers in dealing with this problem as evidenced by the amendment and in the circular originally issued prior thereto and bearing in mind that under the scheme of the Act where the wife or minor child carries on a running business, the right to carry forward the loss in the running business would be available to the wife or minor child if they themselves were assessed but the right would be completely lost if the individual in whose total income the loss is to be included is not permitted to carry forward the loss u/s 24(2); since that would be the result of the strict

literal construction it is apparent that could not have been the intent of Parliament. Therefore, where Section 16(3) of the Act operates, the profits or loss from a business of the wife or minor child included in the total income of the assessed should be treated as the profit or loss from a "business carried on by him" for the purpose of carrying forward and set-off of such loss u/s 24(2) of the Act.

61. Referring to K.P. Varghese Case it was said : (SCC p. 359, para 46)

"46. Where the plain literal interpretation of a statutory provision produces a manifestly unjust result which could never have been intended by the legislature, the court might modify the language used by the legislature so as to achieve the intention of the legislature and produce a rational construction. The task of interpretation of a statutory provision is an attempt to discover the intention of the legislature from the language used. It is necessary to remember that language is at best an imperfect instrument for the expression of human intention . It is well to remember the warning administered by Judge Learned Hand that one should not make a fortress out of dictionary but remember that statutes always have some purpose or object to accomplish and sympathetic and imaginative discovery is the surest guide to their meaning"

62. In State of T.N. v. Kodaikanal Motor Union (P) Ltd. it was again said : (SCC p. 102, para 20)

"As Lord Denning has said, the Judge has to perform the constructive task of finding the intention of Parliament, and he must supplement the written word so as to give "force and life" to the intention of the legislature. Primarily, it is always the duty to find out the intention of the legislature and if it can be done without doing much violence to the language as we find it can be done in this case, though as we have noted that when the purpose was writ large in the scheme of the section "some violence" is permissible, here we are of the opinion that the construction put by the assessed cannot be accepted and the contention urged on behalf of the Revenue in this case should be preferred".

This approach would militate against the Petitioner. So far as the IIT is concerned it's expectation was that the practical training of 400 hours should be carried out in not less than 50 working days. The Petitioner's own application discloses adherence to this expectation. If the Petitioner had anticipated some difficulty in sticking to this regimen, she should have got a clearance from the IIT instead of attempting to solve the problem as per her own convenience. Interference by the Court, by granting a relaxation, would severely undermine educational standards, which I would be loathe to do.

14. Mr. Maninder Singh, learned counsel for the Respondent had stated that the IIT is investigating the appropriateness of permitting practical training in the Surya Chemical Industries which has not only compacted the training into a unbelievable module, but has also handed over the Certificate to the Student/Petitioner herself. This course should be pursued because the entire practical

training has become dubious because of the irresponsible conduct not only of the Petitioner but also of the said company.

15. The Respondent's decision does not suffer from any unreasonableness in the Wednesbury genre or mould. It must, Therefore, remain impervious to interference by the Court. In any event, I find no fault in the impugned decision. The Writ Petition is without merit and is dismissed.