

(2006) 08 P&H CK 0403
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 20137 of 2004

Narender Yadav

APPELLANT

Vs

Maharshi Dayanand University and Another

RESPONDENT

Date of Decision : 02-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0403

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : Lokesh Sinhal, for the Appellant; R.S. Tacoria, for the Respondent

Final Decision : Allowed

Judgement

Hemant Gupta, J.—This order shall dispose of CWP Nos. 20137, 20131, 20135 of 2004 and CWP Nos. 162 and 15107 of 2005. The short question involved in the present bunch of writ petitions is whether Clause 13 of the amended Ordinance of Bachelor of Computer Application, would be applicable to the candidates, already admitted to the said course.

2. The petitioners have joined Bachelor of Computer Application Course in the year 2001-02 affiliated to Maharshi Dayanand University, Rohtak. The Course is of three years divided into six semesters. As per the Ordinance in respect of the said course, a candidate has to pass in all subjects in first and second semesters before he is admitted in fifth and sixth semesters, respectively. The petitioners are the candidates, who have not cleared either first or the second semester in all subjects but were admitted in fifth and sixth semesters of the Course. As per the University, the petitioners were admitted by the College in an unauthorised manner as it was the responsibility of the College to verify whether the students have passed out in the first and second semesters in all the subjects. The petitioners relies upon amended Ordinance, whereby Clause 13 was amended. The existing and proposed Clause 13 of the Ordinance as mentioned in Annexure P.1 reads as under:

Existing Proposed

13. xx xx xx xx xx

The candidate may be promoted to II, III & IV Semester from I, II & III Semester respectively. However, for promotion to V Semester and VI Semester a candidate should have passed all papers of I Semester examination and II Semester examination respectively.

The candidates may be promoted to II, III & IV Semester from I, II & III Semester respectively. However, for promotion of V & VI semesters, a candidate should have:

(VI) passed all papers of I Semester examination and II Semester exam, respectively. Or

(v) passed 50% papers of each semester 1st, 2nd, 3rd and 4th examinations respectively. Or

(vi) passed 2/3 papers of semester 1st , 2nd, 3rd and 4th examinations taken together.

Provided that a candidate shall not be allowed to attend classes in any semester unless he has fulfilled the above requirements of the previous semester(s).

Provided further that a candidate who has paid dues for the higher class and is dropped for want of fulfillment of any of the above conditions shall not be required to pay the dues again on re-admission after fulfillment of above conditions.

3. The learned Counsel for the petitioners has relied upon the provision to Clause 13 of the proposed amendment, which is to the effect that a candidate who has paid dues for the higher class and is dropped for want of fulfillment of any of the above conditions, shall not be required to pay the dues again on re-admission after fulfillment of above conditions. The condition after the amendment is that the candidate is required to either pass all the papers of the first and second semester examinations or pass 50% papers of each semester of first, second, third and fourth semesters or pass 2/3rd papers of first, second, third or fourth semesters examinations taken together. The case of the petitioners is that the petitioners are qualified to be admitted to fifth and sixth semesters, respectively on the strength of the two alternatives contemplated in the amended Ordinance and since the petitioners have paid fee for the next semester, the petitioners are entitled to appear in the examination as their admission would stand regularised by virtue of the amended regulation. After going through the amended regulation, I am of the opinion that by virtue of the proviso, the amended regulation would be applicable even to a candidate, who has paid dues for the higher class but could not take out examination for one or the other reason on account of failure to pass out first and second semesters in all the subjects. The only reasonable interpretation of the said provision is to construe in the manner,

which will advance the purpose of amendment so as to give benefit to the students, who have not passed first and second semesters in all the subjects. Consequently, the present writ petitions are allowed. The respondents are directed to regularise the admission of the petitioners for fifth and sixth semesters as the cases may be. On such regularisation, the respondents shall declare the result of the petitioners.