

(2000) 07 SC CK 0100

In the Supreme Court Of India

Case No : Civil Appeal No. 4916 of 1998

Regional Engineering College, Hamirpur and Another

APPELLANT

Vs

Ashutosh Pandey

RESPONDENT

Date of Decision : 26-07-2000

Acts Referred:

Citation : (2000) 10 JT 216 : (2002) 9 SCC 720 : (2000) 3 UPLBEC 2702

Hon'ble Judges : M. Jagannadha Rao, J;K. G. Balakrishnan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This is an appeal preferred by the Regional Engineering College, Hamirpur, Himachal Pradesh.

2. The respondent before this Court was a student of the appellant college. He fell short of attendance in the last semester. About this, information was furnished to the respondent by placing a notice on the notice board on 19.2.1998. He was also informed personally on 6.4.1998 that he was short of attendance in Computer Application classes. It appears, in spite of it, the respondent absented himself from the classes. Further, in the month of April, from 3rd April, 1998 to 7th April, 1998, he remained absent and did not apply for condonation. It was only on 2nd May, 1998, after lapse of 3 months he made an application for condonation of shortage of attendance in the lectures. His case was considered by the Principal of the college. The Principal refused to grant condonation inasmuch as after deducting the admissible absence of 25%, the Principal was entitled to condone only a further absence of 10% under Regulation 4.1 of Chapter 4 of the Academic Regulations of the College. The Principal felt that after deducting 25% the absence of the respondent was in excess of the discretionary percentage of 10% and therefore respondent could not be granted condonation.

3. The respondent filed a writ petition in the High Court questioning the rejection

of condonation of excess absence. The same was allowed by the Division Bench on the ground that the petitioner (respondent herein) had good academic record from first semester to seventh semester and that shortage occurred in the sixth semester and that too because the respondent was to go to Delhi for appearing in examination/interview for his better prospects after informing the Training and Placement Officer. The Court noticed that the respondent had informed the Training and Placement Officer though he had not specifically applied for condonation to the said Officer and felt that the respondent was within the permissible level of absence. The writ petition was allowed. The High Court directed that the result of the examination be declared. It further directed the Principal to consider the case of the respondent for condonation of shortage in lectures to the extent of 12% (even though it was in excess of 10%) and that the shortage should be condoned by the Principal. The Principal was to pass an order within four weeks and thereafter the result of the respondent's papers in Digital Signal of 8th semester was to be declared. It was also stated that this decision was being rendered in the peculiar facts of the case and would not be a precedent in other cases where shortage in lectures would exceed 10% in addition to 25%.

4. In this appeal, learned Counsel for the appellant has contended that the Principal is entitled for condonation of shortage in lectures only upto 10% (in excess of 25%) and that too in the specific contingencies mentioned in Regulation 4.1. This was not a case falling within the purview of Regulation 4.1. The respondent has remained ex-parte.

5. On the facts, we find that out of 46 lectures in the semester, the respondent had attended only 29 lectures. Giving him the benefit of deduction of 25%, he should have attended 34.5 lectures i.e. 35 lectures.

6. The question for consideration is whether after giving the benefit of 25% a further shortage of 11% could be condoned or not. In our view, Chapter 4 does not give any scope for condonation in excess of 10% after giving the benefit of 25%.

7. The relevant regulation reads as follows:

CHAPTER

ATTENDANCE REQUIREMENT:

4.1(i) To appear in the end semester examination of a course a candidate, should have 75% of minimum attendance in that course.

(ii) A candidate is likely to be detained in those subjects in which he/she will not possess 74% attendance.

(iii) The attendant (sic) (attendance?) should be counted from the date of commencement of class work for all the classes except 1st semester students who may be allowed relaxation in view of their late admission/nomination by

other RECs and also because of extension of last date of admission by the Government of India. Their attendance shall be counted from the date of their actual admission in the 1st semester.

4.2. The candidate having deficient attendance on account of participation in

(i) Inter University, University of Inter College Tournaments.

(ii) NCC/NSS Camps or College/University educational excursions or other curricular activities.

(iii) Mountaineering, Skiing Courses.

(iv) Competitive examinations interviews held by Govt. organisations/Public Ltd. Companies etc.

(v) Other genuine grounds.

Subject to the approval and satisfaction of the Principal the student can also be given attendance credit to the extent of 10% of the total classes held in each course during the period of his/her participation In the above said programs/competitions. Prior approval of the competent authority/Principal in all the above said cases should be obtained in order to avail the above said attendance condonation.

4.3 It is further provided that the condonation on account of reasons listed under (4.2) shall not exceed 10% of the total lectures delivered during the semester. To obtain this concession, the students will have to apply to the concerned Head of Department on prescribed pro forma alongwith above said reasons and documents in proof thereof. The condonation shall be granted by the concerned Head of Department with the prior approval of the Principal.

4.4 The list of all the candidates falling short of attendance shall be displayed on the notice-board along with the subjects by the concerned Head of the Department before the commencement of the final semester examinations.

8. A perusal of the Regulation shows that a candidate should first have 75% of minimum attendance in that course under Regulation 4.1. Regulation 4.2 mentions the circumstances under which further exemption can be granted by the Principal. The Principal can give further credit upto an extent of 10% of the total classes held in each course during the period of a student's participation In the programmers/competitions mentioned in Regulation 4.2. The Principal can exempt upto 10% of the total classes only in contingencies as mentioned in Regulation 4.2. Thus, 10% is the maximum in addition to 25%.

9. In addition, Regulation 4.3 is specific that the condonation on account of reasons listed under (4.2) shall not exceed 10% of the total lectures delivered during the semester. It also states that a candidate will have to apply to the concerned Head of Department on prescribed pro forma along with the reasons and documents in proof of his absence. Condonation can be granted by the

concerned Head of the Department with the prior approval of the Principal. Thus, 10% in excess of 25% alone, is the maximum that can be condoned.

10. In the present case, the respondent did not make any application in the prescribed pro forma. Therefore, it is not possible to say whether his case comes within the contingencies mentioned in Regulation 4.2. It is no doubt stated that the respondent had gone to Delhi to appear in the examination/interview, but it is not clear whether that was an examination/interview held by a Government Organization/Public Limited Company. In any event, admittedly after deducting admissible 25% exemption, further absence of the respondent comes to 11% which is more than the permissible discretionary percentage granted to the Principal. Therefore, the Principal was right in saying he had no power to condone the absence in excess of 10% in addition to 25%.

11. We are, therefore, of the opinion that the High Court fell into an error in permitting condonation of absence beyond 10% in addition to 25%. We, therefore, set aside the judgment of the High Court and the directions given therein.

12. Pending this appeal there was stay of the impugned order and this Court also observed that it would be open to the respondent to appear in the examination in December, 1998 provided he had complied with all other requirements for appearing in the supplementary examination.

13. It appears that the respondent had appeared in supplementary examination. That is why perhaps, he is not represented by Counsel today.

14. For the reasons aforementioned, the appeal is allowed. The judgment of the High Court is set aside. No costs.