
(2010) 08 AHC CK 0462
In the Allahabad High Court
Case No : C.M.W.P. No. 4634 of 2006

Satendra Kumar	Vs	APPELLANT
Vice Chancellor, Dr. B.R. Ambedkar University and Another		RESPONDENT

Date of Decision : 16-08-2010

Acts Referred:

Citation : (2010) 08 AHC CK 0462

Hon'ble Judges : Sanjay Misra, J

Bench : Single Bench

Advocate : Arun Kumar, for the Appellant; Anil Tiwari, S.K. Singh and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Misra, J.—Heard Sri Arun Kumar, learned Counsel for the Petitioner.

2. The Petitioner claims to have appeared in M.A. (Final) Examination of the year 2003 as a regular student of Agra College, Agra having Roll No. 62339. He claims that when the result was declared he has passed in all the papers but in Paper No. V.B. Modern American Literature he was awarded only 12 marks out of 100 and hence feeling aggrieved he had applied for scrutiny in which his claim was also rejected hence this writ petition.

3. The relief claimed in this writ petition is that he should be awarded average marks in the aforesaid paper or the paper itself should be re-examined by another examiner.

4. Counter affidavit has been filed by the Respondents wherein it has been stated that the Petitioner was awarded marks as given to him by the examiner whereafter he applied for scrutiny and after scrutiny it was reported that there was no change found in the marks allotted to him in the said paper. According to learned Counsel for the Respondent the scrutiny was done in the year 2003 itself and the Petitioner has filed this writ petition in the year 2006 by which time the answer sheets have been weeded out by the University and, therefore, cannot be

produced before this Court.

5. Having considered the submission of learned Counsel for the parties and perused the record it is not disputed that the Petitioner appeared in the examination in the year 2003, the result was declared in the year 2003, his mark sheet was given to him on 25.6.2003, he applied for scrutiny which was also done in the year 2003 and no change was found. The Petitioner has come up in this writ petition in the year 2006 by which time the answer sheets have been weeded out.

6. For the aforesaid reasons, the relief claimed by the Petitioner for re-examination of the copies cannot be granted to him.

7. Insofar as his claim to be awarded average marks in the paper in question it was considered when he applied for scrutiny and the authority has found that no change is required in the marks given to the Petitioner in the aforesaid paper.

8. The examiner is the expert who awards marks to the answers. The Courts are not examiners and hence cannot re-assess the answers given for the purpose of awarding marks. Issues such as wrong tabulation of marks awarded or not including marks awarded can be looked into by the Courts by summoning the relevant records. If there is discrepancy in the marks awarded in the answer sheet from that in the tabulation sheet or mark sheet then too it can be ascertained from the record. But to seek relief for awarding particular marks to the answers given is highly improper and the prayer requires to be rejected with costs.

9. The answer sheets can also be looked into for claims that the examiner has not awarded marks to all the answers. But the marks awarded to an answer by the examiner and as confirmed on scrutiny by the re-examination of the answer cannot now entitle the Petitioner to persist for being given more marks. No interference can be made in the assessment made and again re-made by the expert. Therefore, the Petitioner has no legal right now which can be enforced by means of this writ petition.

10. For the aforesaid reasons, no interference is required by this Court in this writ petition. The writ petition appears to have been filed after three years only for the purpose of some vested interest to gain an undeserved advantage after lapse of a period of three years when the copies have been weeded out, therefore, the bona fide of the Petitioner is itself under doubt.

11. For the aforesaid reasons the writ petition is dismissed. However, no order is passed as to costs.