
(2015) 11 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : CWP Nos. 12240 and 12266 of 2014

Sheerin Shah and Others

APPELLANT

Vs

Baba Farid University and Others

RESPONDENT

Date of Decision : 03-11-2015

Acts Referred:

Citation : (2016) 181 PLR 10 : (2016) 1 SCT 557

Hon'ble Judges : Gurmeet Singh Sandhawalia, J.

Bench : Single Bench

Advocate : Rahul Rampal, Advocate, for the Appellant; Siddharth Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Gurmeet Singh Sandhawalia, J.—This judgment shall dispose of CWP-12240 & 12266-2014, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-12240-2014.

2. The petitioner has filed the present writ petition on the ground that she has not been allowed to sit in the examination of Master of Chirurgery (M.Ch.) (specialty in Plastic Surgery), which was to start from 27.06.2014 and the roll number had been withheld. In the other case, the specialty is in Neurology.

3. The respondent-University, in their reply, have taken the plea that it was a three years training period and the roll numbers had not been issued due to shortage of lectures, which was 22 days in the first case and 12 days in the second case. The petitioners had availed more leave than they were entitled to, during their course and as per the MCI Regulations, they had to attend 80% of the lectures, during the training course and on account of the shortage of lectures, the roll numbers had not been issued. The petitioners were permitted to sit in the examinations, vide the interim orders passed by this Court dated 25.06.2015 and 26.06.2015, respectively, subject to the final decision of the writ petition.

4. It is the case of the petitioner that she joined in May, 2011 and she had submitted her thesis and the shortage was on account of the maternity leave which had been availed from 03.10.2011 to 30.03.2012 and no major leave had been taken apart from that one. It is not disputed that as per the reply, filed by the respondent-University, that the petitioners could complete their date of training while incorporating the extra leave till 22.10.2014 and 12.10.2014, respectively, as per the certificate issued by respondent No. 4 where the petitioners were undergoing the course. Relevant portion of the communication dated 28.02.2014 (Annexure R1), addressed by the College to the University, reads as under:

"List of PG students who have availed leave in excess of total leave entitled to them

I would be most grateful to you kindly let me know whether these students are eligible to appear in May/June, 2014 University Examination. As the last date for submission of examination form at the University is 28th February, 2014 and the students are seeking clarification regarding filling of examination forms, you are requested to consider the matter most urgent."

5. It is further not disputed that the Academic Council of the University itself has taken a decision dated 26.09.2001 that in Post-Graduate courses where there is break in training exceeding 10 days, the same may be completed in the following year for making the student eligible to sit in the annual P.G. Examination. Relevant portion of the decision reads as under:

"iv. That any break in training exceeding 10 days in one year shall be required to be completed by the candidate in the following year to make him/her eligible for the 3 year P.G. training completion certificate to enable him/her to earn eligibility to sit for the final PG examination."

6. It is the categorical case of the petitioner that she had completed the tenure till 22.10.2014 as was the requirement whereas in the other case, the petitioner had completed her course on 30.10.2014. It is further the case of the petitioner that she was the University topper in the said examination which she had appeared under the orders of this Court and she was also employed as Assistant Professor and also completed her course Fellowship & Cosmetic Surgery from Cleveland Hospital, Ohio, United States of America.

7. The shortage of lectures has occurred in both the cases on account of maternity leave and this Court has given the petitioners provisional admission. The result has also been declared under the interim orders of this Court where the petitioners have been successful in passing the examination. They have studied thereafter also having undergone the extra training in lieu of the shortage of 22 days and 12 days, respectively, for a course which was of three years. Thus, it would be harsh and unjust to expect them to further attend the course and give their examinations again. A Division Bench of this Court in Ashu Singla Vs. Punjabi University, Patiala & another 2004 (2) RSJ 720 considered the

issue where students had been allowed to give examination in pursuance of the interim orders and it was held that in the absence of any misrepresentation or fraud, result should be declared and the candidate should be entitled for all consequential benefits. The said view was followed in *Shri Guru Gobind Singh Khalsa College & others Vs. Panjab University, Chandigarh & another* 2014 (3) RSJ 499.

8. Thus, in the peculiar facts and circumstances, the present writ petitions are allowed and the interim orders dated 25.06.2015 & 26.06.2015 and the provisional certificates, issued to the petitioners, are hereby confirmed. Accordingly, it is directed that the final certificates be issued to be petitioners.