

(2004) 05 DEL CK 0045

In the Delhi High Court

Case No : Writ Petition (C) No. 5904 of 2002

Shri Trilok Narayan

APPELLANT

Vs

Jawaharlal Nehru University

RESPONDENT

Date of Decision : 24-05-2004

Acts Referred:

Citation : (2004) 111 DLT 769 : (2004) 75 DRJ 287

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : C.S. Yadav, for the Appellant; S.C. Dhanda, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, J.—The petitioner is aggrieved by the non-acceptance of his M.Phil work submitted by the petitioner to the respondent University. The petitioner was enrolled with the respondent University in 1996 for an integrated course under the guidance of respondent No. 3 and submitted his dissertation on 22.07.1998. The petitioner, however, received information only after about two years in July 2000 about the rejection of his dissertation and for the petitioner to vacate the hostel accommodation.

2. The contention of learned counsel for the petitioner is that there is a delay on the part of the respondent in analyzing dissertation of the petitioner and that the dissertation of the petitioner could not have been referred to the external examiner as was sought to be done. In any case the petitioner is entitled to acceptance of dissertation as per rules.

3. In order to appreciate the aforesaid controversy, it is necessary to refer to the Ordinance relating to the award of the Master of Philosophy Degree of the respondent university. The relevant clauses of the same are as under :

11.Evaluation

11.1 Subject to confirmation by the Committee, the method of evaluation in the

courses leading to the M.Phil degree shall be prescribed and assessment conducted by the Department/Centre concerned.

11.2 The dissertation shall be examined by two examiners at least one of whom shall be a person not on the staff of the University and/or on the Committee of the Center/Board of the School concerned to be appointed by the Executive Council on the recommendations of the Academic Council, the Board and the Committee for Advanced Studies and Research of the School concerned.

Provided that in case of difference of opinion between the two examiners with regard to the evaluation of dissertation, the Dean of the School shall arrange to have placed before the Committee the evaluation reports of both the examiners for its consideration.

Provided further that after due consideration of the reports, the Committee may recommend the appointment of a third examiner (not connected with the University) in the manner laid down in clause 11.2 above for the evaluation of the dissertation.

Provided further that if the recommendation of the third examiner is in the negative, the student concerned shall not be awarded the degree of M. Phil.

11.3 The courses and dissertation of the student shall be graded on a ten point scale, that is :

Grade Grade Point

A+ 9 A 8 A- 7 B+ 6 B 5 B- 4 C+ 3 C 2 C- 1 F Fail

There shall be no rounding off of the SGPA/CGPA/FGPA. The Final Grade Point Average obtained by the student shall be classified into following divisions :

FGPA Grade Class/Division

8.5 and above A+ High First Class 7.5 and above but less than 8.5 A Middle First Class 6.5 and above but less than 7.5 A- Lower First Class 5.5 and above but less than 6.5 B+ High Second Class 4.5 and above but less than 5.5 B Middle Second Class 3.5 and above but less than 4.5 B- Lower Second Class

11.4 The examiner, while recommending the approval of the dissertation for the award of M.Phil, degree, shall also award grade for the dissertation according to the grading system in clause 11.3 above The final grade for the dissertation shall be determined by taking the average of the grades awarded by two examiners.

11.5 A student in order to be eligible for the award of Master of Philosophy degree of the University must have a minimum Cumulative Grade Point average (CGPA) of 5.5 (inclusive of dissertation and course work).

12. Notwithstanding what is contained in the Ordinance, the Academic Council may, in exceptional circumstances and on the recommendations of the Committee for Advanced Studies and Research concerned or an appropriate

Committee and Board of the School as well as on the merits of each individual case, consider relaxation of any of the provisions at its discretion and for the reasons to be recorded.

4. In the counter affidavit, it is stated that the internal examiner of the university recommended the approval of the dissertation submitted by the petitioner and gave some grades though the grades have not been disclosed. However, when the matter was referred to the external examiner, who in the present case was Justice Rajinder Sachar (Retd.) the dissertation was not found acceptable. The letter of the external examiner has been placed on record in which reasons have been set out that there is no emphasis on the matter in issue which was required to be discussed in the dissertation. Thereafter the dissertation was referred to the other external examiner to Shri Ujjawal Kumar Singh who also as per a detailed report did not find it possible to accept the M.Phil dissertation. Thus the dissertation was rejected.

5. Learned counsel for the petitioner contends that the grades given by the internal examiner have not been disclosed and assuming that the external examiner has rejected the dissertation and zero mark may be assigned for the same then the average of the same be taken in terms of clause 11.4 mentioned above. It is thus submitted that on the basis of the average of the grades the petitioner may achieve the minimum cumulative grade of 5.5 as set out in clause 11.5. In the alternative it is submitted that in Clause 12 the Academic Council has the authority to consider relaxation of any provision.

6. Learned counsel for the respondent on the other hand submits that a reading of Clause 11.2 makes it clear that there has to be unanimity of view between the external and the internal examiner for approval of the dissertation and thereafter the issue of grading would arise. Thus it is only when there is such approval, the grades are taken in to account and there is minimum grade requirement as per Clause 11.5.

7. I have considered the submissions of learned counsel for the parties.

The scheme for analyzing such dissertation is provided in Clause 11 and clause 11.2 envisages the consideration of the dissertation by two examiners , one of which has to be external examiner. In case of disagreement between the two examiners the matter has to be referred to the third examiner and the last proviso to clause 11.2 makes abundantly clear that if the recommendation of the third examiner is in the negative the student concerned shall not be awarded the degree of M.Phil.

8. In the case of the petitioner, the external examiner did not find merit in the dissertation to approve the same. The dissertation was thus referred to the third examiner who also agreed with the external examiner for non-acceptance of the dissertation.

9. The issue of grading to be given to the petitioner and clause 11.5 requiring

minimum grade to be achieved by the petitioner would only arise if there is unanimity of the view between the internal and external examiner for approval of the dissertation. Thus it is an additional requirement that the minimum grade must be achieved even where there is unanimity of view between the internal and external examiner. In case there is disagreement amongst the two, the matter has to be referred to the third examiner and in case third examiner would have agreed to accept the dissertation, then the grade granted by the third examiner and the grades granted by the examiner accepting the dissertation would be taken into account for computing the average as per clause 11.4 and for meeting the minimum requirement as per clause 11.5. Unfortunately for the petitioner both the external examiners are unwilling to accept the dissertation of the petitioner.

10. In such a case there is really no relevance of what grades have been granted by the internal examiner for taking any average. I am thus of the considered view that the rejection of the dissertation of the petitioner is as per the Ordinance relating to the award of the Master of Philosophy Degree.

11. In so far as the reliance placed by the petitioner on clause 12 is concerned, there is no request made by the petitioner for consideration of such relaxation and thus it is not possible to go into this issue. The occasion for the same would only arise if such an application is made which is either accepted or rejected.

12. Learned counsel for the petitioner further states that the petitioner has a right to approach for enrollment for P.hd Programme in terms of clause 6 (iv) of the said Programme which is on the basis of previous research experience. If the same is permissible, it is always open to the petitioner to do so.

13. The writ petition is dismissed with the aforesaid observations leaving the parties to bear their own costs.