
(2023) 02 KL CK 0121
In the High Court Of Kerala
Case No : Writ Petition (C) No. 1808 Of 2023

Shylock Raju

APPELLANT

Vs

Kerala University Of Health Sciences

RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

Citation : (2023) 02 KL CK 0121

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : T.P.Pradeep, P.K.Sathees Kumar, R.K.Prasanth, Minikumary M.V., Jijo Joseph, P.Sreekumar, Manu S

Final Decision : Dismissed

Judgement

Sathish Ninan, J.

1. This writ petition is at the instance of the student in Pharm-D course under the first respondent University. He belongs to the 2019 year batch. He has completed the third year of the course. To join for the 4th year, as per the University regulations, he is bound to clear all the papers of the first and second years. The petitioner failed to clear all the papers of the second year before the commencement of the 4th year classes. He could clear the papers of the second year only through the supplementary examination held in October 2022. He seeks for relaxation of the regulation and for permission to attend the 4th year classes provisionally.

2. Heard Sri.T.P.Pradeep, learned counsel for the petitioners, Sri.P.Sreekumar, learned Standing Counsel for the University and learned Assistant Solicitor General on behalf of the Pharmacy Council.

3. The relevant provision of the University Regulations, 2017, reads as under:-

"1.18. Criteria for promotion to next year:-

All the students of Pharm D. course who have registered for all the papers in the

annual regular examinations, shall be permitted to attend the classes of the next higher year, on condition that he/she shall have to discontinue the studies in the higher year, if he/she fails in more than two subjects of the lower year even after the 1st supplementary examination available for him/her for that particular year.

Explanation :- The failed students of regular examinations are eligible to appear for the 1st supplementary examinations in the failed papers, and if they pass in the failed papers, they are eligible to continue with the original batch without losing additional six months. However, if the student has more than two failed papers of the 1st year, even after the 1st supplementary examination, he/she shall have to discontinue the 2nd year studies and considered as not promoted to 2nd year.

A student after first year supplementary examination can carry two or less than two subjects of the first year to the second year and continue with the second year. Failure in more than two subjects shall keep the student with the succeeding regular batch.

For promotion to third year the candidate should have cleared all the first year papers and for promotion to fourth year he/she should clear all the papers in the 2nd year and so on.

Before registering for the fifth year exam, the candidate should have cleared all the papers of the past years. Only after the passing of all the papers including the fifth year the students are eligible for internship.

Attendance will be counted for each year from day one only when the candidate is qualified to be promoted to that year."

4. It is not in dispute that, as per the Regulation, to attend the 4th year of the course, the petitioner has to clear all the papers of the first and second years. It is noticed that, with regard to the first year, the examinations(mains) were conducted in July, 2021 followed by supplementary exams. As regards the second year, the main examinations were held in November, 2021 and was followed by supplementary examinations in May, 2022 and October, 2022. He could not clear all the papers in the supplementary examination held in May 2022. Going by the Regulations (supra), the petitioner had to clear all the papers of the second year for securing promotion to attend the classes of the 4th year. Having failed to do so, he was not permitted to attend the 4th year classes. Though the petitioner has cleared the second year papers in the supplementary examinations held in October, 2022, the learned counsel for the University would point out that, the classes for the fourth year had commenced much earlier and if the petitioner is now permitted to attend the same, it would result in shortage of attendance thus disabling him from appearing for the next examinations.

5. The petitioner further contend that, relaxation was granted by the Pharmacy Council and the University with regard to B-Pharm students and the same benefit is to be extended to him. The learned counsel on behalf of the Pharmacy Council

submits that, exemption was granted to B-Pharm students without it being a precedent and on the factual situation obtaining therein.

6. Though the petitioner would contend that consequent on the Covid-19 Pandemic, examinations were not being conducted regularly and it disabled him from properly preparing for the examination, as noticed above, he had sufficient time to make preparations and clear the supplementary examination before commencement of the 4th year classes. So also, as noticed, the Pharmacy Council is also not in favour of relaxing the Regulations any further.

7. Considering all the facts as above, I don't think that any interference by this Court is warranted.

Resultantly, this writ petition fails and is accordingly dismissed.