
(1982) 07 P&H CK 0022
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1011 of 1981

The Punjab University, Chandigarh

APPELLANT

Vs

Kanwar Chaudhary

RESPONDENT

Date of Decision : 12-07-1982

Acts Referred:

Citation : AIR 1983 P&H 200

Hon'ble Judges : S.P. Goyal, J; Prem Chand Jain, J

Bench : Division Bench

Judgement

Prem Chand Jain, J.—The Punjab University through its Registrar has filed the present appeal under clause x of the Letters Patent against the judgment of the learned single Judge dated 3rd Aug., 1981, by which Civil Writ Petn. No. 1472 of 1982 filed by Kanwar Chaudhry, writ petitioner, (now respondent) was allowed with a further direction to the appellant to declare his result.

2. In order to appreciate the controversy raised before us, certain salient features of the case may be noticed :--

The respondent appeared in the Bachelor of Arts, Part III Examination in April, 1980, the result of which was declared in July, 1980. He got compartment in the subject of Political Science. As provided for under the rules the respondent could appear in the subject of Political Science at the next two examinations, that is, in September, 1980 and in April, 1981, in order to enable him to clear the Political Science Paper. The respondent availed of the first chance in September, 1980, but failed as he secured only 30 marks whereas the minimum marks required to pass the paper were 35. Not being satisfied with the result of the examination, the respondent applied for revaluation of his paper. The result of the revaluation, he sent a completed admission form along with a postal order for Rs. 40/- as the examination fee and Rs. 105/- as late fee of the Registrar, Punjab University, for appearing in the examination to be held in April, 1981, vide registered letter dated 23rd March, 1981; but the Registrar refused to entertain the application of the respondent and sent a communication in this respect to the respondent vide

a letter dated 2nd April, 1981, copy of Annexure P. 3 to the petition. Dissatisfied from the reply, the respondent made a representation, but the same rejected by the Registrar vide letter dated 8th April, 1981, copy Annexure P. 5 to the petition. As the respondent was refused permission to sit in the examination, he filed Civil Writ Petn. No. 1472 of 1981 in this Court. At the time of the hearing of the petition, the point that was raised on behalf of the respondent by his counsel was that for the purpose of Rule 1, Part (D), Chap. XXII, of the Punjab University Calendar Vol. III, 1981, which reads as under :--

"1. The late date for receipt of admission forms without and with late fee, in case of a candidate whose result is published late by any University/Board shall be-

(a) Pre-University/Pre-Engineering/Medical, T. D. C. Parts I, II and III, B. Com. Part I, II and III and M. A. Parts I and II Examinations :

(i) Without late fee Within 15 days of the date of which his result was published.

(ii) With late fee of Rs. 5. For ten days after the last date in (I).

(iii) With late fee of Rs. 30. For another month after the last date in (ii).

(iv) With late fee of Rs. 105. Up to two weeks before the commencement of the examination only if allowed by the Registrar.

....."

the date of the publication of the result of the revaluation has to be taken into consideration and not the date on which the original result was declared. This plea found favour with the learned single Judge, with the result that the admission form submitted by the respondent was held to be well within time. Consequently, without going into any other question, the writ petition, as earlier observed, was allowed with costs.

3. Before us, Mr. H. S. Bedi, learned counsel appearing for the appellant, has contested the aforesaid finding, inter alia, on the ground that entirely a new case has been made out by the learned single Judge, for the respondent inasmuch as in the petition no plea has been taken that the admission form was submitted within time by the respondent and that it is the date of the publication of the result of the publication of the result of the revaluation which shall have to be taken into consideration for the purpose of R. 1. In the alternative, it is submitted by the learned counsel that in the instruction issued for the purpose of getting the revaluation made, it has been clearly specified that the candidate should plan his/her future programme according to the result already communicated by the University and in the wake of those instructions, the respondent could not legally claim that the date on which his revaluation result was declared should be the date for filing the admission form under R. 1.

4. After hearing the learned counsel for the parties at length, we find considerable force in the contention of the learned counsel for the appellant. We have gone through the entire petition and find that no plea on the point which

has found favour with the learned counsel Judge, has been taken in the petition. Rather the whole case of the respondent is that he had deposited the late fee of Rs. 105/- under clause (iv) of Rule 1 and that the Registrar without applying his mind had rejected the admission form. In the entire petition not a single word has been said that the date of the publication of the result of the revaluation shall be the date of the purpose of R. 1. It would be pertinent to observe at the stage that if the date of which the result after revaluation is declared, is to be taken the relevant date for the purpose of R. 1, then it was not necessary for the petitioner to have deposited a late fee of Rs. 105/- as his admission form had been filed within time. In this view of the matter, we are constrained to hold that a case which was not set up in the petition was sought to be made out by the respondent at the time of arguments before the learned single Judge and on that score alone, the finding of the learned single Judge is liable to be set aside.

5. However, even on merits, we find that there is substance in the contention of the learned counsel for the appellant. On a bare reading of the Rule along with the instructions issued for the purpose of revaluation, there can be no manner of doubt that it is the date of the publication of the original result which has to be taken into consideration for the purpose of R. 1 and not the date on which the result of the revaluation is conveyed. We do not agree with the learned single Judge that the instructions issued by the University regarding revaluation cannot be adverted to for the purpose of determining the meaning of the expression "result". The candidates apply for revaluation on the basis of the instructions. A complete procedure is prescribed in these instructions of getting revaluation made. If these instructions provide that the future programme is to be planned in accordance with the original result, then a candidate certainly cannot successfully urge that he is not bound by those instructions. The instructions do not go counter to Rule 1 : rather they are supplemental to that rule.

In this view of the matter, we have no hesitation in holding that for the purpose of Rule, it is the date of the publication of the original result which is to be taken into consideration and not the date on which the decision on revaluation of the paper, is communicated.

6. Faced with this situation, it was contended by the learned counsel that the respondent had sent the admission form with a late fee of Rs. 105/- ; that the Registrar rejected the form without applying his mind and that in the circumstances of the case the Registrar should have accepted the admission form and allowed the respondent to sit in the examination.

7. After hearing the learned counsel for the parties, in the circumstances of the case, we find force in the contention of the learned counsel for the respondent. As is evident, under the orders of this Court dated 17th April, 1981, the respondent was allowed to sit in the examination to be held on 20th April, 1981. It was not disputed before us by the learned counsel for the appellant that under Rule 1, the admission form could be submitted with the late fee of Rs. 105/- . From the letter of the Registrar dated 2nd April, 1981, we find that the admission

form of the respondent was not entertained on the ground that the last date of the receipt of the admission form had expired on 31st Dec., 1980. This obviously was a wrong approach of the University, as the admission form was not submitted under clause (iii) of Rule 1(a) but was submitted under Clause (iv). On receipt of the letter dated 2nd April, 1981, the respondent made a representation to the Registrar and brought to his notice that he could accept the form up to two weeks before the commencement of the examination. Surprisingly enough, this representation was rejected without applying mind by the Registrar as is evident from the communication dated 8th April, 1981, copy Annexure P. 5 to the petition. In this case, the form with a late fee of Rs. 105/- was sent within two weeks before the commencement of the examination as the decision on revaluation was taken on 2nd Feb., 1981. The Registrar if had applied his mind to clause (iv) of R. 1(a), then he would have certainly accepted the admission form; but as earlier observed, clause (iv) of Rule 1(a) was never adverted to by the Registrar and the admission form was rejected arbitrarily. In this view of the matter, we have no hesitation in holding that the decision take by the Registrar in rejecting the admission form is arbitrary and illegal and cannot be sustained.

8. Having arrived at the aforesaid finding, in the ordinary course, the Registrar would have been directed to reconsider his decision of rejecting the admission form but, in the instant case, the respondent has already in the examination and only his result is to be declared. In this situation, and in the instant of justice, we feel that the admission form filed by the respondent would be taken to have been accepted by the University as the same complies with clause (iv) of R. 1(a). The respondent has taken the examination and as directed by the learned single Judge, the University would declare his result forthwith.

9. As a result of the aforesaid discussion, we dismiss the appeal but on ground other than the one which found favour with the learned single Judge. In the circumstances of the case, we make no order as to costs.

S.P. Goyal, J.

10. I agree.

11. Appeal dismissed.