

CASE NO.:
Appeal (civil) 544 of 2002

PETITIONER:
SHALINI

Vs.

RESPONDENT:
KURUKSHETRA UNIVERSITY & ANR.

DATE OF JUDGMENT: 18/01/2002

BENCH:
R.C. Lahoti & K.G. Balakrishnan

JUDGMENT:

R.C. Lahoti, J.

The petitioner, appeared in B.Sc. (Home Science) Part-I examination conducted by Kurukshetra University, the respondent No.1, which was held in the month of April, 2000, as a regular student of Govt. College, Panchkula, the respondent No.2. On 7.8.2000, the result was declared and the petitioner was declared 'failed'. A provisional detailed marks card, dispatched by the university to the college, was received by the college on 20.8.2000 and collected by the petitioner on 21.8.2000. On 13.9.2000, the petitioner applied for re-evaluation. It was rejected on the ground that the application for re-evaluation was made beyond the time prescribed therefor. The petitioner sought for a reconsideration of the rejection but the university vide its communication dated 3.11.2000 informed the petitioner that not only the application was received late but the prayer for re-evaluation was not entertainable because the petitioner's original detailed marks card ('DMC', for short) was not received uptill then.

Detailed marks card issued by the university reached the college on 6.11.2000 and collected by the petitioner on the same day. Once again, on 8.11.2000, the petitioner submitted re-evaluation application accompanied by original detailed marks card now available with the petitioner. The application was entertained by the respondents. The university took about two months' time for completing the process of re-evaluation and vide communication dated 17.1.2001, received by the petitioner on 20.1.2001, the petitioner was declared 'pass' having secured 56% marks. On 22.1.2001 the petitioner applied to the Principal of the college for giving her admission in B.Sc. Pt.II class which was refused on the ground of inordinate delay on the part of the petitioner in seeking admission. On the same day the petitioner approached the Vice-Chancellor of the university also but her prayer met with a summary rejection only.

Having lost all hopes of redressal of her grievance by the respondents, the petitioner approached the High Court of Punjab & Haryana at Chandigarh by filing a writ petition. On 1.2.2001, the High Court issued rule nisi and also directed the respondents, by an interim order, to grant provisional admission to the petitioner subject

to further orders of the court. The petitioner commenced her course of study taking the classes regularly ever since the date of her admission under the orders of the court. The respondent allowed her to appear in the examination but only as a private candidate. However, her result was not declared. She moved an application in her pending writ petition soliciting interim direction of the High Court to the respondents for declaring her result. The High Court took up the application for consideration on 14.9.2001 but disposed of the writ petition itself by dismissing the same forming an opinion that there was no merit in the petition on the ground that the application for re-evaluation was submitted neither within 20 days of the publication of the result nor within 20 days of the dispatch of the detailed marks card. Feeling aggrieved by the order of the High Court, this petition seeking special leave to appeal has been filed.

Leave granted.

The relevant part of Clause 18 of Ordinance IV of the University Calendar-Vol.II, framed in exercise of powers conferred by Section 11(5) of the Kurukshetra University Act, 1986 reads as under:-

"18.1 A candidate for examination in theory papers will be allowed to have the answer books in theory papers re-evaluated on submission of applications on the prescribed form accompanied by the original detailed marks card and the re-evaluation fee within 20 days of the date of declaration of the result of the particular examination or within 20 days of the date of dispatch of the detailed marks card by the University office whichever is later."

xxx

xxx

xxx

A bare reading of the abovesaid provision shows the error committed by the High Court. An application for re-evaluation to be valid has to be (i) accompanied by original detailed marks card and the full fee, and (ii) delivered in university office either within 20 days of the date of the declaration of the result or within 20 days of the date of dispatch of the detailed marks card by the university office, whichever is later. Earlier the application moved by the appellant was accompanied by provisional marks card. The stand taken by the university in its communication dated 3.11.2000 itself shows that in the absence of original DMC, the university was not prepared to treat the appellant's prayer for re-evaluation entertainable. In any case the relevant clause itself provides for an extended period of limitation available to an applicant by permitting him to take advantage of one of the two events marking commencement of limitation whichever occurs later. The appellant was, therefore, justified in making a prayer for re-evaluation within 20 days of the dispatch of the detailed marks card. Such application being a valid application and filed within the period of limitation (in fact, within two days) could not have been declined by the university. The appellant cannot be faulted for the delay on the part of the university in declaring the result, despatching the DMC and re-evaluating the appellant's answer books. The appellant has taken all the steps promptly and in the facts and circumstances of the case we cannot form an opinion, even prima facie, that there has been any delay, remissness or laches on the part of the appellant in taking any step either in approaching the respondents or the High Court. We are told that the result of B.Sc. (H.Sc.) Part II is yet to be declared officially by the respondents and for want of such result being declared, the appellant has not been allowed admission in B.Sc.(H. Sc.) Part III.

Unhesitatingly we are of the opinion that the appellant should be treated as a regular student of B.Sc.(H.Sc.) Part II and her result should also be declared treating her as a regular student. However, the difficulty arises in allowing her admission in B.Sc.(H.Sc.) Part III course of study as a regular student. The learned counsel for the respondents have submitted that major part of the educational year is over, the appellant has not attended the lectures, not taken the practicals and there will be shortage of attendance which cannot be condone or regularized. On the other hand, the learned counsel for the appellant submitted that the appellant should not be made to suffer for no fault of hers and the situation created either by the respondents or by the time lost in litigation. He further submitted that the Vice-Chancellor of the university has power to condone the delay and take an appropriate decision suited to the circumstances of an individual case so as to remove injustice done to an individual student. However, no specific provision in this regard or any precedent has been brought to our notice by either of the parties.

In the facts and circumstances of the case, we are of the opinion that the following directions would meet the ends of justice:-

- 1) the appellant shall be treated as a regular student of B.Sc.(H.Sc.) Pt.II course of study and the result of her examination shall be declared forthwith;
- 2) the appellant shall apply to the Vice Chancellor of the university or any other authority competent in this behalf seeking admission in B.Sc.(H.Sc.) Pt.III course of study and invoking power, if there be any under the act, ordinance or statutes governing the university, to condone the delay in seeking admission. Else the appellant shall be entitled to admission in B.Sc.(H.Sc.) Pt.III course of study commencing in the next session.

We order accordingly and dispose of the appeal in the terms abovesaid. No order as to the costs.

J.
(R.C. LAHOTI)

J.
(K.G. BALAKRISHNAN)

January 18, 2002