

(2001) 10 P&H CK 0156

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 15474 of 2001

Ranbir Singh

APPELLANT

Vs

Guru Nanak Dev University,
Amritsar and Another

RESPONDENT

Date of Decision: Oct. 25, 2001

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: AIR 2002 P&H 107 : (2002) 1 RCR(Civil) 1139

Hon'ble Judges: Swatanter Kumar, J; Amar Bir Singh Gill, J

Bench: Division Bench

Advocate: G.S. Gandhi, for the Appellant; A.G. Masih, DAG and P.S. Patwalia, for the Respondent

Final Decision: Dismissed

Judgement

Swatanter Kumar, J.

Upon completion of his 10+2 examination, the petitioner took admission in Layalpur Khalsa College, Jalandhar to pursue his further studies in Bachelor of Science Course. The petitioner passed his B.A. Part-I by securing 379 marks out of 800 marks and took his B.Sc. Part-II examination in April, 2001. The petitioner received his result-cum-de-tailed marks card where he had been given 36 in theory paper and 51 marks in practical. The petitioner was expecting better marks. The petitioner was failing in one paper and after declaration of result on 29th June, 2001, the petitioner applied for re-evaluation of his papers in accordance with the rules and deposited necessary fee. There are two papers of Physics A and B. On re-evaluation, the petitioner could hardly improve his marks. Still he applied or re-checking of marks again on 7th Sept. 2001.

2. Learned counsel for the petitioner, during the course of arguments, alleged that the petitioner had seen his original papers and the marks given by the different

examiners and the respondent has wrongly calculated the marks of the petitioner. Thus, awarding or marks, which has resulted in failing of the petitioner, in the subject is illegal, arbitrary.

3. Upon notice, no reply was filed on behalf of the respondent-Guru Nanak Dev University but the learned counsel for the University produced the original record including the answer sheets of the petitioner in regard to papers A and B of the Physics. It was submitted that the marking of the papers has been done strictly in accordance with regulation 8 which is the only provision in the University Calendar for re-evaluation of the marks.

4. Clause 8 of Chapter XI of the University Calendar reads as under :--

8. The panel of examiners for re-evaluation will be supplied by the Chairperson of the Board of Studies in that subject and approved by the Vice-Chancellor.

(i) Each script, will be re-evaluated as a whole by two examiners separately. The average of the two nearest scores out of the three awards including the original shall be taken as final.

(ii) in the case of post-graduate examinations, the examiner (s) for re-evaluation shall be from outside the jurisdiction of this University :

Provided that where the examiner (s) from outside the jurisdiction of this University are not available, the examiner (s) from within the jurisdiction of this University shall be appointed.

(iii) Re-evaluation of answer books shall be done on the spot by inviting the examiners to the Campus.

5. It is an admitted case before us that regulation 8 of Chapter XI of the University Calendar relates to re-evaluation of the answer books. There is no challenge to this rule in petition. On the contrary, the petitioner has placed reliance upon the provisions of the said rule, in any case, the competent authority in its wisdom has framed these regulations for re-evaluation of the answer books for which they have legislative competency and there is no arbitrariness in these rules. The Hon'ble Apex Court time and again has held that if there is no provisions of re-evaluation of the answer books the candidate cannot claim it to the contrary as a matter of right or otherwise and Court Would not interfere on such a ground. In this regard reference can be made to the case of Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kurmarsheth. etc. etc., AIR 184 SC 1543, where the Court held as under at page 1549 :

Regulation 104 (3) is not invalid on the ground of violation of the rules of natural justice. The "process of evaluation of answer papers or of subsequent verification of marks" under Clause (3) of Regn. 104 does not attract the principles of natural justice sine no decision-making process which brings about adverse evil

consequences to the examinees is Involved. The principle of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such absurd lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performances or to verify the correctness of the evaluation made by the examiners by themselves conducting an inspection of the answer books and determining whether there has been a proper and fair valuation of the answers by the examiners."

6. Reverting back to the merits of the present case, we would refer to the relevant part of the regulation relating to reevaluation of the answer books applicable to the present case.

7. After the petitioner submitted the application for re-evaluation of the answer book in accordance with the above rules, the papers of the petitioner were re-examined by the two different examiners. As per rules, the University has to give average of the two nearest score, out of the three awards including the original. The marks awarded by the previous examiner are kept secret and are not informed to the subsequent examiner. In the original result the petitioner had secured 26 and 9 marks in Physics Papers A and B respectively, though the petitioner claimed in the petition on the basis of the typed marked sheet filed by him in court that he had got more marks. After re-evaluation, the first examiner awarded 25 marks while the second examiner awarded 42 marks to the petitioner in Physics A paper, while in Physics B paper, the petitioner was awarded 11 marks by the examiner on first re-evaluation of answer book and 15 marks on 2nd re-evaluation. The University was to award to the petitioner average of nearest two score i.e. average of 26-25 in Physics A paper and average of 9-11 in Physics B papers. As a result of above calculation, the petitioner got 26 marks in paper Physics A and 10 marks in paper B of Physics. The petitioner has been communicated the same marks by the University.

8. As we have already noticed, the original answer books as well as final award list upon re-evaluation itself was produced before us. All the papers, which were sent for re-evaluation including that of the petitioner has the same kind of marking. The candidates who were awarded originally 20 or above marks, were given similar marks by the second examiner. No mala fide have been alleged against any person and rightly so. The original record produced before the Court do not even remotely suggest any error on the part of the University authorities. We see no reason to Interfere in this petition in exercising of its power under Articles 226/227 of the Constitution of India.

9. Consequently, the writ petition is dismissed. However, there shall be no order as to costs keeping in view the facts and circumstances of the case.