

Before : I. S. Tiwana and M. R. Agnihotri, JJ.

JAGAT NARAIN GUPTA,—Appellant.

versus

PANJAB UNIVERSITY, CHANDIGARH AND OTHERS,—
Respondents.

Letters Patent Appeal No. 228 of 1989

May 15, 1989.

Panjab University Calendar, Volume III (1985)—Reg. 9.2—Application for re-evaluation of result in fifth semester—Applicant gaining 3 per cent increase—Addition of such increase—Permissibility of—Scope of Reg. 9.2—Stated.

Held, that according to Reg. 9.2 of the Panjab University Calendar Volume II (1988), the increase gained as a consequence of re-evaluation in one Semester examination cannot be allowed to be added in the result of another semester examination. Thus, the increase of 3 per cent marks in the Fifth Semester Examination could not be added to the marks obtained by the appellant in the Sixth Semester Examination no matter the final result of the LL.B. Degree Course may be declared on the basis of the aggregate marks obtained in the Fifth and Sixth Semester Examinations. Further, according to the reply filed by the University, no separate merit list is maintained by the University for the Fifth Semester Examination which obviously means that there was neither any occasion nor the necessity for the purpose of giving credit of the addition of 3 per cent marks, which was less than the minimum provided in the Regulation itself.

(Para 6).

LETTERS PATENT APPEAL under Clause X of the Letters Patent against the Order dated 17th February, 1989 passed by Hon'ble Mr. Justice A. L. Bahri, in Civil Writ Petition No. 9016 of 1988 praying that while setting aside the impugned Judgment dated 17th February, 1989 passed by the learned Single Judge, this appeal be accepted and the Writ Petition filed by the appellant be allowed with costs throughout.

I. S. Balhara, Advocate with petitioner in person and Mr. S. K. Hooda, Advocate for the Appellant.

Salil Sgar, Advocate for Respondent No. 1 and 2.

Ashok Bhan, Sr. Advocate with R. P. Bali, Advocate for Respondent No. 3 and Jasdeep Singh Respondent No. 3 in person.

JUDGMENT

M. R. Agnihotri, J.

(1) This is a letters patent appeal filed under Clause X of the Letters Patent against the judgment dated 17th February, 1989, passed by the learned Single Judge by which C.W.P. No. 9016 of 1988 filed by petitioner-appellant, Jagat Narain Gupta, was dismissed.

(2) The appellant had prayed for the issuance of a writ of *mandamus* directing the Panjab University to add 3 marks to the aggregate marks secured by him as a result of the Fifth and Sixth Semester Examinations of the LL.B. course, which marks the appellant had gained by re-evaluation of one of the papers in the Fifth Semester Examination. This addition of 3 marks gained by re-evaluation in the Fifth Semester was considered as material by the appellant, as by this process he would have stolen a march over Jasdeep Singh and Rajneesh Kumar Gupta, respondents Nos. 3 and 4, which would have enabled the appellant to claim Gold Medal to be awarded, being topper in the LL.B. (Final) Examination of the University.

(3) The appellant got admission in 1985 in the first year of the LL.B. Course which consisted of six Semesters. Respondents Nos. 3 and 4, Jasdeep Singh and Rajneesh Kumar Gupta, were also admitted in the same year to the same course. After clearing the Fourth Semester, by passing the four examinations of the four Semesters separately, all the three students were admitted in the Fifth Semester in August, 1987. The examination for the Fifth Semester was held in December, 1987. The appellant and Jasdeep Singh, respondent No. 3, feeling dissatisfied with the marks secured by them in the Fifth Semester Examination, applied for re-evaluation of some of the papers. Though as a result of the re-evaluation, an increase of 3 marks was to be allowed in the case of the appellant and of 5 marks in the case of respondent No. 3, Jasdeep Singh, but the same was not done in the case of the appellant. Resultantly, the marks obtained by the appellant in the Fifth Semester remained 337, that is, the original award declared by the University, whereas in the case of Jasdeep Singh, respondent No. 3, after making the addition of 5 marks, the award rose to 348 from 343 as it originally stood. Thereafter, in the Sixth Semester Examination, the appellant secured 359 marks and Jasdeep Singh,

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respondent No. 3, secured 349 marks. Since for awarding the Degree of the Bachelor of Laws, marks secured by a candidate in the Fifth Semester Examination as well as in the Sixth Semester Examination are added, the appellant obviously secured 696 marks (337 in the Fifth Semester and 359 in the Sixth Semester). On the other hand, Jasdeep Singh, respondent No. 3, secured 697 marks (348 in the Fifth Semester and 349 in the Sixth Semester). So far as Rajneesh Kumar Gupta, respondent No. 4, was concerned he too secured 697 marks, which award is not in dispute in the present case. As a result, both Jasdeep Singh and Rajneesh Kumar Gupta, respondents Nos. 3 and 4, having secured 697 marks each, were declared as toppers in the LL.B. (Final) Examination of the University as also eligible for the award of Gold Medal. Aggrieved by this position, the petitioner-appellant approached this Court by way of writ petition under Articles 226 and 227 of the Constitution of India, for the issuance of a *mandamus* for the addition of 3 marks flowing from the re-evaluation of a paper in the Fifth Semester Examination, to the marks secured by him in the Sixth Semester Examination so that he could claim the award of Gold Medal in his favour.

(4) In response to the writ petition, the position taken by the Panjab University before the learned Single Judge was that according to Regulation 9.2 of the Panjab University Calendar, Volume III (1985), the petitioner-appellant was not entitled to the increase of 3 marks as a consequence of re-evaluation, as an increase or decrease by 5 per cent or more of the maximum marks allotted to the concerned paper alone, was effected in the total marks obtained by a candidate. Regulation 9.2 is reproduced below :—

“9.2. The Result of a candidate will be changed on re-evaluation only if the character of result is changed (Character means ‘Fail’ to ‘Pass’ or ‘Compartment’, ‘Comp’ to ‘Pass’ or *vive versa*, change in division, in aggregate, or position in the University merit list) or where on re-evaluation the score increases/decreases by 5 per cent or more of the maximum marks allotted to the concerned paper.

Therefore, according to the University, since respondent No. 3, Jasdeep Singh, got the increase of 5 per cent marks as a result of

re-evaluation, the increase was rightly made in his award of the Fifth Semester, but the same was not done in the case of the petitioner-appellant as it was only 3 per cent, that is, less than the minimum provided in the said Regulation. Agreeing with the stand taken by the University, the learned Single Judge dismissed the writ petition finding no merit in the same.

(5) Before us in this appeal, the only contention raised by the learned counsel for the appellant is that the University was bound to add the 3 per cent marks gained by the appellant in the Fifth Semester Examination as this addition was going to affect the result of the Sixth Semester Examination as also the award of Gold Medal. This argument has been advanced on the premises that according to Regulation 9.2 *ibid*, if the character of the result is going to be changed or position in the University merit list undergoes a change, then even if the increase on re-evaluation is less than 5 per cent, that addition will have to be made.

(6) With respect to the learned counsel, the argument is wholly misconceived as according to the Panjab University Calendar Volume II (1988), the Bachelor of Laws Course consists of six Semesters and each Semester examination is held separately. Therefore, according to Regulation 9.2, the increase gained as a consequence of re-evaluation in one Semester examination cannot be allowed to be added in the result of another Semester examination. Thus, the increase of 3 per cent marks in the Fifth Semester Examination could not be added to the marks obtained by the appellant in the Sixth Semester Examination; no matter the final result of the LL.B. Degree Course may be declared on the basis of the aggregate marks obtained in the Fifth and Sixth Semester Examinations. Further, according to the reply filed by the University, no separate merit list is maintained by the University for the Fifth Semester Examination which obviously means that there was neither any occasion nor the necessity for the purpose of giving credit of the addition of 3 per cent marks, which was less than the minimum provided in the Regulation itself. In view of this, we do not find any merit in the contention raised by the learned counsel and the conclusion arrived at by the learned single Judge deserves to be endorsed.

(7) To be fair to the appellant, it may also be noticed that the argument was also sought to be advanced on the ground that the result of one of the Semesters of respondent No. 3 had not been

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declared by the University in time and it was declared only after the declaration of the result of the Sixth Semester Examination. This has been clarified by the University that it was just by inadvertance and did not affect the merits of the controversy.

(8) Consequently, the appeal fails and is dismissed with no order as to costs.

S.C.K.

Before : V. Ramaswami, CJ and G. R. Majithia, J.

MUNICIPAL COMMITTEE, BHIWANI,—Appellant.

versus

MUNSHI AND ANOTHER,—Respondents.

Letter Patent Appeal No. 394 of 1983

May 31, 1989.

Punjab Town Improvement Act, 1922 (as enforced in Haryana)
—S. 44A—*Validity of—Provision granting extension of period for execution of scheme—Guidelines laid down for extension of time—Such provision—Whether can be termed as arbitrary.*

Held, that the provision of S. 44A of the Punjab Town Improvement Act, 1922 (as enforced in Haryana) is valid and so is the action of the State Government taken under it.

(Para 17)

Held, that if within the period prescribed the scheme is not executed the State Government can extend the time to execute the same on satisfaction that it was beyond the control of the Trust to execute the scheme within the period prescribed. The guidelines for exercising the power is mentioned in the provision itself. If the material exists, the State Government's action cannot be said to be unjustified. The material cannot be examined by the Court objectively to ascertain whether it was sufficient for the Government to come to the conclusion that the Trust could not execute the scheme within the period prescribed. The material did not exist on record and the state Government on the basis of that material arrived at a satisfaction that it was beyond the control of the Trust to execute the scheme within the prescribed time or within the extended time. The matter pertains to the subjective satisfaction of