

CIVIL MISCELLANEOUS

*Before Bal Raj Tuli, J.*BAKSHSHISH SINGH,—*Petitioner.**versus*THE GURU NANAK UNIVERSITY, ETC.,—*Respondents.***Civil Writ No. 368 of 1972.**

March 29, 1972.

Panjab University Calendar (1970)—Regulations 10-A and 10-B—Minimum number of marks necessary to pass the examination—Whether have to be obtained in each paper separately including the internal assessment—Percentage of marks to be obtained for passing an examination—How to be calculated.

Held, that Regulation 10-A of the Panjab University Calendar, 1970 in unambiguous terms provides that in order to succeed, every candidate must obtain 50 per cent marks separately in each theory paper, each practical and oral, and internal assessment. Internal assessment of each paper forms part of that paper and the paper is to be considered as one consisting of question paper set at the examination and internal assessment in respect thereof. All that Regulation 10-A means is that including the marks obtained in internal assessment, each candidate must obtain 50 per cent marks in each paper as a whole, that is, including the internal assessment for which purpose 20 per cent marks have to be reserved under Regulation 10-B. To illustrate, if a paper carries 100 marks the question paper in respect thereof to be answered in the examination will be of 80 marks and 20 marks will be reserved for internal assessment. In order to pass the examination in that paper, the candidate is required to obtain 50 marks by aggregating the marks obtained in the paper answered at the examination and the marks allotted for internal assessment in respect thereof. The candidate is not required to obtain 50 per cent marks separately out of 80 marks of the papers answered at the examination and 20 marks reserved for the internal assessment. In addition thereto, the candidate will have to obtain 50 per cent marks out of the aggregate marks reserved for internal assessment in respect of all the papers for the examination. (Para 2).

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of certiorari, or any other appropriate writ, order or direction be issued to respondents No. 1 and 2 to send the records of the petitioner's case to this Hon'ble Court and finding that the marks given for internal assessment are obviously a mistake or a deliberate suppression of the merit of the petitioner and further splitting of the internal assessment for various papers

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is without jurisdiction and unwarranted, and further praying that respondent No. 1 be directed to accept the correction submitted by Respondent No. 2 vide letter No. 4289, dated 23rd/24th August, 1971 and declaring the petitioner successful in Part I of the M.Sc. Agriculture examination held in April, 1971 and for his having obtained the 50 per cent marks in internal assessment as a whole i.e., in either case the petitioner who is successful, should be so declared by respondent No. 1.

K. S. Thapar, Advocate, for the petitioner.

Gurbachan Singh, Advocate for Respondent 1.

Roop Chand, Advocate, for Respondents 2 to 4.

JUDGMENT

TULI, J.—(1) The petitioner joined the Khalsa College, Amritsar, in M.Sc., Agriculture for 1970—72 Session. He appeared in the University Examinations of Part I in April, 1971. He was declared 'Fail' on the ground that he had not secured 50 per cent marks in the internal assessment relating to theory papers III and IV. This petition has been filed to challenge the decision of the University that 50 per cent marks in internal assessment relating to each theory paper were required to pass in the examination. The contention of the petitioner is that 50 per cent marks out of the aggregate meant for internal assessment in respect of all the papers and not 50 per cent marks in respect of each paper separately were required to be obtained by him in order to pass the examination which he did. Written statement has been filed by all the respondents. It is not necessary to go into the pleas raised by the respondents because the decision of this writ petition depends on the interpretation of Regulations 10-A and 10-B at pages 123 and 124 of the Panjab University Calendar, 1970, which have been adopted by and are, thus, applicable to Guru Nanak University. These regulations read as under:—

“10-A. The minimum number of marks required to pass each Part of the examination shall be 50 per cent separately in:

- (i) each theory paper,
- (ii) each practical and oral;
- (iii) internal assessment; and
- (iv) thesis of dissertation.

10-B. Twenty per cent of the total marks in each subject, separately in theory and practical, shall be reserved for internal assessment.”

(2) The interpretation placed by the respondents is that a candidate must obtain 50 per cent marks relating to internal assessment in each paper separately and if he does not do so, he cannot be declared to have passed the examination. I regret I cannot agree to the interpretation canvassed by the respondents. Regulation 10-A in unambiguous terms provides that in order to succeed, every candidate must obtain 50 per cent marks separately in each theory paper, each practical and oral, and internal assessment. Either internal assessment is a part of each paper, theory as well as practical and oral, or it is not. If it is considered as a part of each paper, then all that Regulation 10-A means is that including the marks obtained in internal assessment, each candidate must obtain 50 per cent marks in each paper as a whole, that is, including the internal assessment for which purpose 20 per cent marks have to be reserved under Regulation 10-B. If internal assessment is not to be considered as a part of a paper, then the only requirement of Regulation 10-A is that the examinee must obtain 50 per cent marks in the internal assessment as a whole considering it as one paper, that is, the aggregate of internal assessment marks in respect of all the papers, theory as well as practical and oral. If that was not the intention of the authorities making the regulations, it could have been made more explicit. The language used cannot bear any other interpretation. In any case if the language is ambiguous, the benefit of the ambiguity has to be given to the candidate. In my opinion, internal assessment of each paper forms part of that paper and the paper is to be considered as one consisting of question paper set at the examination and internal assessment in respect thereof. To illustrate, if a paper carries 100 marks, the question paper in respect thereof to be answered in the examination will be of 80 marks and 20 marks will be reserved for internal assessment. In order to pass the examination in that paper, the candidate is required to obtain 50 marks by aggregating the marks obtained in the paper answered at the examination and the marks allotted for internal assessment in respect thereof. The candidate is not required to obtain 50 per cent marks separately out of 80 marks of the papers answered at the examination and 20 marks reserved for the internal assessment. In addition thereto, the candidate will have to obtain 50 per cent marks out of the aggregate marks reserved for internal assessment in respect of all the papers for the examination. For example, if there are six papers of 100 marks each, the marks reserved for internal assessment will be

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120 out of which the candidate must secure 60 marks in order to pass the examination.

(3) It is admitted by the learned counsel for the Guru Nanak University that the petitioner has secured 50 per cent marks out of the aggregate 120 meant for internal assessment as a whole and has thus complied with the requirement of Regulation 10-A (iii). He has also obtained more than 50 per cent marks in each theory paper and practical including internal assessment marks, so that the petitioner has complied with the requirements of Regulation 10-A (i) and (ii) as well. Accordingly he should have been declared as having passed the examination. Instead he has been wrongly declared as having failed.

(4) For the reasons given above, I accept this writ petition and quash the result of the petitioner already declared, and direct the Guru Nanak University to declare the result of the petitioner in accordance with the interpretation of Regulations 10-A and 10-B as made above. Since the matter was *res integra*, I leave the parties to bear their own costs.

N.K.S.

CRIMINAL MISCELLANEOUS

Before Gopal Singh, J.

DIDAR SINGH ALIAS DARI,—*Petitioner.*

versus

THE DISTRICT MAGISTRATE, AMRITSAR, ETC.—*Respondents.*

Criminal Writ No. 25 of 1972.

March 30, 1972.

Maintenance of Internal Security Act (XXVI of 1971)—Sections 3(2) and 12(1)—Constitution of India (1950)—Article 22(4) and (5)—Detention by District Magistrate under section 3(2)—Order of confirmation passed by State Government after more than three months from the date of detention—Such detention—Whether becomes illegal—Unjustified delay in forwarding