A

THE PUNJAB UNIVERSITY, CHANDIGARH ETC.

v.

B

SUNDER SINGH AND OTHERS

February 27, 1984

[S. MURTAZA FAZAL ALI, A. VARADARAJAN AND RANGANATH MISRA, JJ.]

C

Punjab University Calendar Vol. II, 1976, Chapter III Rule 27.1 (a) interpretation of—Whether the allowance of grace mark under Sub-Rule (a) or (b) will apply to candidates reappearing in any subject—Award of grace mark at Post Graduate level deprecated.

Respondents in each of these appeals could not clear the LLM examination in accordance with Regulation 7 of the Punjab University Regulations either in the first attempt or later while taking on compartmental basis even after addition of grace marks as laid down in Rule 27(1)(b) of the University Regulations. The respondents filed separate writ petitions praying for a direction to give the benefit of moderation grace mark as calculated under Rule 27(1)(a). The High Court rejected the plea of the Appellant University holding that it was Rule 27(1)(b) that applied and not Rule 27-1(a). Hence the appeal by Special Leave.

D

E

Allowing the appeal, the Court

HELD : A bare reading of the Rule 27 (referred to as the Regulations by the High Court) makes it clear that clause (a) is applicable where the full examination is taken and clause (b) is attracted where the candidate reappears to clear the compartment or subject and part in which he has been declared eligible to reappear. In each of these cases the candidate was reappearing to clear the paper in which he or she had failed; clause (b) was clearly attracted and the benefit under clause (a) was not available. The language of clause (b) is such as would squarely apply to such a situation. The provision in clause (b) is clear and on reappearing the candidate becomes entitled to grace marks of up to one per cent of the total marks of the subject/subjects in which he reappears. Once clause (b) applies no referenee is available to the performance in the regular examination taken earlier and the benefit of grace marks to the extent indicated has to be confined to the performance at the reappearance. Once this is the position each of the candidates was not eligible to pass.

F

G

[34GH, 35B-C]

[In view of the declaration dated 19.6.1980 made before the court, that irrespective of the result of the appeals, the candidates will be declared to have passed, the Court as a special case did not want to disturb the result.]

H

[35D]

A *Observation* :

The position obtaining in the Punjab University in respect of Post Graduate degrees namely grace marks being awarded is disapproved. A Master's degree in any speciality is considered to be the highest qualification in the normal run. It is very much necessary that such a degree should be
B conferred only on the deserving students who having studied the subject and taken the appropriate examination conducted by the University at the end of such studies have deserved the degree on the basis of their performance. There should be no scope for looking for grace marks at such level and the sooner the Punjab University abandons the practice of awarding grace marks in respect of post-graduate examinations the better it would be in the interest of higher education in this country. [35F-H]

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6009 of 1983.

Appeal by special leave from the Judgment and Order dated the 19th April, 1983 of the Punjab and Haryana High Court in
D C.W.P. No. 1484 of 1983.

WITH

Civil Appeal Nos. 1207 and 1208 of 1980.

Appeals by special leave from the Judgment and Order dated
E the 30th May, 1980 of the Punjab and Haryana High Court in Civil Writ Petition Nos. 1759 and 1848 of 1980.

J.L. Gupta, D.N. Gupta and *V.K. Verma* for the Appellant in CA. No. 6009 of 1983.

F *J.L. Gupta* and *C.M.Nayar* for the Appellant in CA. No. 1207 and 1208 and 1980.

Hardev Singh and *R.S. Sodhi* for the Respondents.

The Judgment of the Court was delivered by

G RANGANATH MISRA J. Each of these appeals is by special leave and is directed against the decision of the High Court of Punjab and Haryana in separate writ petitions. A common question is involved in all the three matters and that relates to a correct interpretation of Rule 27.1(a) in Chapter III of the Punjab University Regulations.

H

Respondents in each of these appeals was a student of the Punjab University for the Master Degree in Law (LL.M.). Rule

7 of the Punjab University Regulations provides : A

"7. The minimum marks required to pass Part I/II examination, as the case may be, shall be :

(i) 45 per cent in each paper; and

(ii) 50 per cent in the aggregate." B

It may be stated that there are eight papers in all each carrying 100 marks and Part-I covers four papers while Part-II covers the remainder. Rule 27 reads as follows :

"27.1(a). A candidate who appears in all subjects of an examination and who fails in one or more subject (written, practical, sessional or viva voce) and/or the aggregate (if there is a separate requirement of passing on the aggregate) shall be given grace marks up to maximum of 1 per cent of the total aggregate marks (excluding marks for internal assessment) to make up the deficiency if by such addition the candidate can pass the examination. While awarding grace marks fraction working to 1/2 or more will be rounded to a whole ; C D

Provided that grace marks be also awarded to a candidate if by awarding such marks he can earn exemption or compartment in subject/s and part/s. E

(b) A candidate who re-appears to clear the compartment or subject/s and part/s in which he has been declared (eligible) to re-appear shall be awarded grace marks up to 1% of the total marks of the subject/s and part/s in which he re-appears if by such addition the candidate can pass in that subject/s or part/s." F

Each of the respondents failed to satisfy the requirements of Rule 7 and being eligible to clear the subject in which he failed on compartmentel basis reappeared in such subject in the next examination. As on the performance of the subsequent examination each of the respondents was not eligible to pass by complying with the requirements of Rule 7, the need for invoking Rule 27 arose. The University authorities took the view that Rule 27.1(b) authorised addition of the grace marks of up to 1 per cent on the marks secured in the subject/s in which the candidate reappeared and as with that benefit given the candidates did not pass, they were found not to have been successful. That led to each of the G H

A respondents filing a separate writ application before the High Court.

The High Court referred to the rule and observed :

B "The only question to be seen is whether Regulation 27.1(a) in Chapter III of the Punjab University Calendar, Volume II, 1976, relating to Moderation of Question Papers and results of examinations, is applicable or not. We have gone through clauses (a) and (b) of this Regulation very carefully and we find that clause (b) is not applicable. We C are unable to agree with the contention of Shri Gupta, the learned counsel for the University that the case would fall under clause (b). This contention is without any merit as it is clear that this clause will only come into play if the candidate is failing in the subject in which he or she re-appears. It is quite clear from the facts that the petitioner has D not so far availed advantage as given in clause (b) so that she could get one per cent mark of the total marks in all the subjects.....

The contention of the learned counsel for the Univer- E sity, that clause (a) will only apply if a candidate appears in all the subjects in the examination, is without any merit. The language of this provision does not show what has been contended before us.

For the reasons recorded above, we allow this writ F application and direct the University to make available the benefit of clause (a) of the said Regulation to the petitioner and declare the result of the petitioner accordingly."

A bare reading of the Rule 27 (referred to as the Regulations G by the High Court) makes it clear that clause (a) is applicable where the full examination is taken and clause (b) is attracted where the candidate reappears to clear the compartment or subject and part in which he has been declared eligible to reappear. In each of these cases the candidate was reappearing to clear the paper in which he or she had failed ; clause (b) was clearly attracted and the H benefit under clause (a) was not available. The University had taken that decision and took the same stand before the High Court in answer to the rule nisi. We are clearly of the opinion that the

High Court went wrong in taking the view that when a candidate reappeared to clear a paper or a subject on being found eligible to do so, clause (a) was attracted. The language of clause (b) is such as would squarely apply to such a situation. Having taken the view that clause (a) governed the matter, the High Court had no occasion to express any opinion as to if clause (b) applied what benefit the candidate would have got. The provision in clause (b) is clear and on reappearing the candidate becomes entitled to grace marks of up to one per cent of the total marks of the subject/subjects in which he reappears. Once clause (b) applies no reference is available to the performance in the regular examination taken earlier and the benefit of grace marks to the extent indicated has to be confined to the performance at the reappearance.

Once this is the position each of the candidates was not eligible to pass. We, however, find that a direction was given in this Court on 19.6.80 on the concession of the University that the respondents in the two appeals of 1980 would be declared to have passed irrespective of the result of the appeals. Learned counsel appearing for the University before us reiterated his consent and even agreed that the respondent in the remaining appeal may be given the same advantage as the University did not intend to make any discrimination. In view of this special feature we do not disturb the declaration of the University that each of the respondents has passed the examination taken by him or her.

We must indicate our disapproval of the position obtaining in the Punjab University that in respect of post-graduate degrees grace marks are being awarded. A master's degree in any speciality is considered to be the highest qualification in the normal run. It is very much necessary that such a degree should be conferred only on the deserving students who having studied the subject and taken the appropriate examination conducted by the University at the end of such studies have deserved the degree on the basis of their performance. There should be no scope for looking for grace marks at such level and the sooner the Punjab University abandons the practice of awarding grace marks in respect of post-graduate examinations the better it would be in the interest of higher education in this country.

A We allow each of these appeals and set aside the judgments of the High Court in each of the writ petitions without any order for costs. To avoid confusion we reiterate that our vacating the the judgments of the High Court do not in any manner affect the declarations made in favour of the respondents by the appellant-University in regard to passing of the Master Degree Examinations in law.

S.R. *Appeal allowde.*