

Punjab University, Chandigarh

Vs

Devjani Chakrabarti and Others

Punjab University, Chandigarh

Vs

Ranjit Singh Negi and Others

Civil Appeals Nos. 1381 of 1980 and 2667 of 1983

(A. P. Sen, V. B. Eradi, a. Varadarajan JJ)

17.05.1984

JUDGMENT

VARADARAJAN, J. -

1. These appeals by special leave are by the Punjab University and directed against two Division Bench judgments of the Punjab and Haryana High Court in Writ Petitions 1917 of 1980 and 2349 of 1980, allowing those writ petitions without nay order as to costs, 1980 as being covered by the decision in W. P. 1917 of 1980 which was disposed of on July 7, 1980. Kulwant Singh Tiwana, J. is a party to both the judgments and he sat with Harbans Lal, J. for hearing W. P. 1917 of 1980 and with M. M. Punchi, J. for hearing W. P. 2349 of 1980. In these circumstances, it is necessary to state only the facts relating to W. P. 1917 of 1980 along briefly.

2. The system known as "10 plus 2 plus 3 system" was introduced in the educational institutions in the country some years ago. The Association of India Universities decided the equivalence of this 10 plus 2 plus 3 system with the old 11 plus 3 years degree course all states where the patterns of education is such as to require 14 years for the first degree, i.e. 11 plus 3 years, the new plus 2 stage of the Central Board of Secondary Education be treated as equivalent to a pass in the first year of the three-years degree course or for admission to the first year of the two -years decree course or for admission to the first year of the two-years degree course. This suggestion was conveyed by the Association of the Indian Universities to the Chairman of the Central Board of Secondary Education by a letter dated April 18, 1978. The appellants, Punjab University decide on February 10, 1977 that the twelfth standards examination conducted by the Boards/Universities under the new 10 plus 2 plus 3 system be recognised as equivalent to the Pre-Medical/Pre-Engineering/B. A Part I/B. Sc Part I/ B. Com. Part I examination according to the combination of the subjects. Subsequently on June 4, 1978 the Punjab University decided to treat the eleventh standard of the new 10 plus 2 plus 3 system as equivalent to the pre-University examination of the University. Copies of those decisions dated December 10, 1977 and June 4, 1978 were Annexures P-2 and P-3 respectively in W. P. 1917 of 1980. These recognitions of the equivalence of those two examinations continued till the beginning of the year 1980. But on April 18, 1980 the Punjab university decide that the first year students of the plus 32 course in the 10 plus 2 plus 3 system of the Central Board's schools who does to take public examination at the end of the first year should not be considered as equivalent to the student

who has passed the pre-University examination of the Punjab University for joining the Pre-Medical/Pre-Engineering/B. A Par I/B. Sc. Part I/B. Com. Part I of the University. On May 7, 1980, the Punjab University decided that the twelfth standard examination in the new 10 plus 2 plus 3 system conducted by any recognised Board/Council/University shall be treated as equivalent to the Pre University examination of the University. These decisions dated April 18, 1980 and May 7, 1980 are Annexures R-2 and R-3 respectively in W. P. 1917 of 1980.

3. Petitioners 1 to 37 in W. P. 1917 of 1980 had passed the twelfth standard examination in the 10 plus 2 plus 3 system of the Central Board of Education and petitions 38 to 92 in the writ petition had been promoted from the eleventh standard to the twelfth standard in that system. These 92 petitioners filed W. P. 1917 of 1980 challenging the Punjab University decisions (Annexures R-2 and R-3) dated April 18, 1980 and May 7, 1980 contending that in view of the earlier decisions of the University, namely, Annexures P-2 and P-3 dated December 10, 1977 and June 4, 1978 respectively they had joined the clauses in the plus 2 course with the object of joining the colleges affiliated to the University in the next class of equivalence as also engineering and medical colleges and that the University cannot, therefore change those decisions by the subsequent decisions, Annexures R-2 and R-3 to their detriment. They invoked the doctrine of promissory estoppel in regard to that ground of attack on those two decisions. The second ground of attack by the petitioners in W. P. 1917 of 1980 was that the decisions Annexures R-2 and R-3 are retrospective in operation and they have taken away their vested right and that the University has no power, either under the Punjab University Act or under any statute, regulation or rule to make any regulation, rule or ordinance adversely affecting their vested rights retrospectively.

4. The defence of the appellant-University was that the decisions, Annexures R-2 and R-3 were taken in the place of the earlier decisions, Annexures P-2 and P-3 in the interest of education on the ground that the eleventh standard examination in the new 10 plus 2 plus 3 system was not a public examination and the standard of education in the schools where that system was in vogue was low and even the making system in the examinations as lenient. The University further contended that even the syllabi in the equivalent examination in the schools and colleges were not the same. The University stated that the Committee of Experts which was constituted by the Vice Chancellor of the University when the students in the engineering colleges started an agitation, went into the question and submitted a report suggesting the change in regard to equivalence in view of the difference in the syllabi and the deficiency in the teaching imparted in some subjects in the schools. The University, therefore, contended that the new decisions Annexures R-2 and R-3 were taken bona fide and are only prospective in operation and that the doctrine of promissory estoppel pleaded by the petitioner in the writ petitions does not apply to the University.

5. The decisions Annexures P-2, P-3, R-2 and R-3 are of the Syndicate which has power to make rules etc. under Section 20(5) of the Punjab University Act in the same manner as the Senate has similar power under Section 31 of that Act. The learned Judges of the Division Bench rejected the contention of the petitioners before them that the Syndicate has no power which the Senate has under Section 31 of the Act and held that the Syndicate has similar power under Section 20(5) of the Act. They rejected the further contention that there is any bar of promissory estoppel against the University in regard to the matter and, however, held that petitioners 1 to 37 had joined the 10 plus 2 course in the Central Schools lying within the territorial jurisdiction of the Punjab University in 1978 and passed the twelfth standard examination and had planned their education in a particular manner to join the colleges affiliated to the Punjab University in the second year of the 3 years degree course and other courses after passing the twelfth standard examination in the plus 2 system. They found that similar is the case of petitioners 38 to 92 in W. P. 1917 of 1980 who had been

promoted from the eleventh to the twelfth standard in the plus 2 system. They held that Annexure R-3 will deprive petitioners 1 to 37 and Annexure R-2 will deprive petitioners 38 to 92 of the right to seek admission in engineering and medical college after passing the twelfth standard in the 10 plus 2 system, and Annexure R-2 and R-3 take away that right and are retrospective in nature. In coming to this conclusion the learned Judges of the Division Bench relied very strongly upon the decision of a Full Bench of the Punjab and Haryana High Court in *Punjab University v. Subash Chander*. The learned Judge accordingly allowed W. P. 1917 of 1980 on the sole ground namely, that Annexures R-2 and R-3 are bad as being retrospective in operation, without any order as to cost and held that Annexures R-3 and R-2 will not stand in the way of petitioners 1 to 37 and 38 to 92 respectively before them from seeking admission to higher classes or in engineering and medical colleges on the basis of the old decisions, Annexures P-2 and P-3. The other Division bench which heard W. P. 2349 of 1980 allowed that petition without any order as to costs as being covered by the decision in W. P. 1917 of 1980.

6. We are of the opinion that these appeals have to be allowed. The learned Judges of the High Court allowed the writ petitions only on the ground that the new decisions Annexures R-2 and R-3 are retrospective in operation and that they cannot affect the writ petitioners before them from seeking admission to higher classes or in engineering or medical colleges on the basis of the earlier decisions Annexures P-2 and P-3, relying mainly upon the decision of the Full Bench in *Punjab University v. Subash Chander*. We have, in our separate judgment delivered today in C. A. 2828 of 1977, which arose out of that Full Bench decision, reversed that decision and held that there is nothing retrospective in the order challenged in that case. In that case one Subash Chander was admitted to the integrated MBBS course in the Daya Nand Medical College, Ludhiana in the year 1965. At the time of the admission, under Regulation 25 read with Rule 7.1 a student who fails in one subject/paper was entitled to grace marks at 1 per cent of the total aggregate marks of all the subjects for which he appears. But in 1970 the rule was amended to the effect that the grace marks will be 1 per cent of the total aggregate marks for any particular subject of the examination in which he had failed. Subash Chander appeared for the final MBBS examination in 1974 and secured 106 out of 200 marks in the practical examination and 95 out of 200 marks in the theory examination in Midwifery, which was one of the four subjects for which he appeared at that time. He had passed the examinations in the other three subjects for which the total aggregate was 1200 marks. Under the old rule he would have been entitled to 16 grace marks at 1 per cent of the total aggregate of all the four subjects, namely, 1600 marks. But he was allowed only 4 grace marks under the new rule being 1 per cent of the aggregate for the subject in which he had failed, namely, Midwifery. The High Court accepted his contention that amendment of the rule made in 1970 was retrospective in operation though it was made applicable to Subash Chander only in 1974 merely because he had joined the integrated course in 1965 when the rule regarding the award of grace marks was more liberal. In allowing the appeal against the judgment of the Full Bench we have held that there was no question of the rule having any retrospective operation as it was framed in 1970 and it did not say that it was operative from any earlier date and it was applied to Subash Chander only in 1974. It could be stated to be retrospective in operation merely because it was applied to Subash Chander who had joined the course in 1965 before the amendment was made in 1970.

7. In the present case also the new decisions are prima facie prospective in operation and they did not become retrospective merely because they subsequently applied to students who had already started their educational careers. We, therefore, allow these appeals but without any order as to costs and set aside the judgments of the High Court and dismiss the writ petitions. However, this decision will not affect the right which might have been granted to the petitioners in the writ petition on the basis of the judgments of the High Court which have been reversed in these appeals.

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