

THE HIGH COURT OF SINDH, KARACHI

Suit No. 1367 of 2024

[Muhammad Arif & others v. University of Karachi & another]

Plaintiffs : Muhammad Arif and 03 others through Mr. Mujtaba Sohail Raja, Advocate along with Mr. Muhammad Arsal Rahat Ali, Advocate.

Defendant No.1 : University of Karachi through M/s. Ameer-Uddin and Yasmeen Bano, Advocates for the Defendant No.1 along with Mr. S. Zafar Hussain, Controller Examinations, University of Karachi.

Defendant No.2 : Sindh Muslim Government Law College through Mr. Fareed Ahmed Dayo, Principal is present in person.

Dates of hearing : 18-12-2024

Date of decision : 18-12-2024

ORDER

Adnan Iqbal Chaudhry J. - The Plaintiffs enrolled in the Sindh Muslim Government Law College (Defendant No.2 - S.M. Law College) for a five-year LLB Program commencing around October 2022. Their annual examination for BA (Law) Part-I was held by the University of Karachi (Defendant No.1 - University) in January 2024. Result was announced on 03-06-2024. Each Plaintiff failed in more than one subject. They sat for a supplementary examination in September 2024 and passed those subjects when the result was announced on 06-11-2024. As per the mark-sheet of the supplementary examination, the Plaintiffs were promoted to BA (Law) Part-II commencing 2024, which means that they will be eligible to sit for the annual examination for BA (Law) Part-II in 2025. Resultantly, the University did not accept examination forms from the Plaintiffs for the annual examination of BA (Law) Part-II scheduled to commence from 23-12-2024. The Plaintiffs pray *inter alia* for a

mandatory injunction to enable them to sit for the annual examination for BA (Law) Part-II commencing 23-12-2024, and with CMA No. 17648/2024 they pray for the same relief in the interim.

2. Mr. Mujtaba Raza, learned counsel for the Plaintiffs submits that notwithstanding that they failed BA (Law) Part-I, the Plaintiffs attending classes for BA (Law) Part-II that had commenced in February 2024, and therefore they possess the requisite attendance; that it is not their fault that the University delayed the result for BA (Law) Part-I and then the supplementary examination; that unless the Plaintiffs are allowed to sit in the forthcoming annual examination for BA (Law) Part-II, they will be set back by a year. Learned counsel relies on Rule 12(ii) of the Pakistan Bar Council Legal Education Rules, 2015 to submit that the Plaintiffs are not barred from sitting for said examination. Professor Fareed Dayo, Principal S.M. Law College, states that though there is no way to verify whether the Plaintiffs attended classes for BA (Law) Part-II, they are in this predicament because the University took time in announcing the result for BA (Law) Part-I, and then for conducting the supplementary examination. He therefore supports the case of the Plaintiffs.

3. Mr. Ameeruddin, learned counsel for the University, along with the Controller of Examinations also rely on Rule 12(ii) of the Pakistan Bar Council Legal Education Rules, 2015 to oppose the Plaintiffs' application. They submit that the Plaintiffs were never eligible to sit for the supplementary examination because they had failed in more than one subject and were required to repeat the year for BA (Law) Part-I; that the University had not accepted supplementary examination forms from other students who had failed in more than one subject, but the examination forms of the Plaintiffs were accepted/processed by mistake in the rush to process other forms before the deadline; that though the University does not hold that against the Plaintiffs, they are still not eligible to sit in the forthcoming examination for BA (Law) Part-II as their repeat year for BA (Law) Part-I is not complete; and thus the Plaintiffs will be eligible

to sit for the annual examination for BA (Law) Part-II most likely to be held in June, 2025.

4. Heard learned counsel and perused the record.

5. Both sides rely on Rule 12(ii) of the Pakistan Bar Council Legal Education Rules, 2015 which reads:

“12(ii). Only failed candidates and those placed in compartment shall be allowed to avail of the supplementary examination. However, a student placed in compartment shall not be permitted to appear in the next higher examination without having passed all the papers in which he had failed.”

6. Counsel for the Plaintiffs submits that Rule 12(ii) in fact envisages that a student who passes in the supplementary examination can sit for the next higher examination, which in this case is the annual examination for BA (Law) Part-II commencing 23-12-2024. But then, Rule 12(ii) does not specify the eligibility to sit for the supplementary examination. That is specified in the prospectus of S.M. Law College, which clearly stipulates that only if a student fails ‘ONE’ subject of Part-I, he/she will be eligible for promotion to BA (Law) Part-II. Such promotion of course is subject to passing the failed subject in supplementary examination. In other words, if a student of Part-I fails in MORE THAN ONE subject, he cannot be promoted to BA (Law) Part-II, and consequently he will have to repeat Part-I. Therefore, the University appears to be correct in submitting that the Plaintiffs, who had failed in more than one subject, were never eligible to sit for the supplementary examination. The fact that they were allowed to do so and that they passed, makes no difference, as they would still have to complete the repeat tenure of Part-I. Therefore, Rule 12(ii) of the Pakistan Bar Council Legal Education Rules, 2015 does not help the Plaintiffs.

7. It is also acknowledged by S.M. Law College that the Plaintiffs were promoted to BA (Law) Part-II only last month in November 2024. Therefore, even if the Plaintiffs can prove that they had attended classes of BA (Law) Part-II prior to their promotion, that

would not *ipso facto* make them eligible to sit in the annual examination for BA (Law) Part-II within a month of their promotion.

8. Apparently, the Plaintiffs were allowed to sit for the supplementary examination for BA (Law) Part-I due to a mistake of the University. While that is not being held against the Plaintiffs by the University, the fact of the matter is that similar treatment was not given by the University to other students who had failed in more than one subject. Therefore, if the Plaintiffs are allowed to sit for the forthcoming annual examination, that would tantamount to giving them special treatment over other students similarly placed.

9. In view of the foregoing, where the Plaintiffs do not demonstrate any violation of the Pakistan Bar Council Legal Education Rules, 2015, they do not make out a *prima facie* case for the grant of a temporary injunction. CMA No. 17648/2024 is dismissed.

JUDGE

Karachi
Dated: 18-12-2024