

CONFIDENTIAL

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 49 OF THE ACADEMIC APPEALS BOARD

To the Academic Affairs Committee,
University of Toronto.

Your Board reports that it held meetings on Friday, February 9th, 1979 at 2:30 p.m. in the Croft Chapter House, University College, on Wednesday, February 28th, 1979 at 7:00 p.m. in the Council Chamber, Faculty of Pharmacy, and on Tuesday, March 20th, 1979 at 7:30 p.m. in Room 106, Simcoe Hall, at which the following were present:

Professor J.B. Dunlop (In the Chair)
Ms. Beverley A. Batten
Professor A.M. Hunt
Dean John C. Ricker

Professor Peter A. Salus
Professor Victor G. Smith
Miss M. Salter, Secretary

In Attendance:

**Mr. S.
and Counsel, Mr. Orest H.T. Rudzik

**Professor J.G. Slater
Department of Philosophy

**Professor G.T. Artola
New College
Department of East Asian Studies

**Professor R.M. Smith
Department of East Asian Studies

**Professor J.F. Burke
Associate Dean
School of Graduate Studies

**Mr. Peter White
Assistant Secretary
School of Graduate Studies

*Professor C.D.C. Priestley
Department of East Asian Studies

**Professor A.K. Warder
Department of East Asian Studies

*Present at February 9th, 1979 meeting only

**Present at February 9th and 28th, 1979 meetings only

THE MEETINGS WERE HELD IN CLOSED SESSION

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

1. Mr. S.

At meetings on February 9th, February 28th and March 20th, 1979 the Academic Appeals Board heard and considered the appeal of *M.S.* a candidate for a Ph.D. degree in Sanskrit and Indian Studies, against a decision of the Committee on Applications and Memorials of the School of Graduate Studies denying the appellant's request to be granted a pass in respect of his oral examination and his dissertation or, in the alternative, to be permitted a further opportunity to be examined orally and to defend his dissertation.

On the first occasion of his oral examination in April of 1977 the examination was adjourned. When the examination was reconvened in April 1978 the appellant failed. The decision of the Board is that the request to be granted a pass on the basis of his oral examination and thesis should be refused but that the request to be given a further opportunity to be examined orally and to defend the dissertation should be granted.

The case is, in the Board's view, unique, or nearly so. It is unlikely that similar circumstances will arise again. It is certainly to be hoped that they will not. Thus the Board would hope that its decision in this case will not be a precedent for the resolution of future cases.

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The essence of the appeal was that adverse conditions under which the appellant was examined were such as to inhibit severely his ability to perform effectively and that there were procedural irregularities that may also have influenced the outcome. The Board agrees with both these contentions. Two points implied in this conclusion should be made explicit: that the Board makes no judgment about the merits of the appellant's work and that it finds no evidence of bad faith.

The evidence of a number of witnesses was that the atmosphere at the examination was much more tense than is normal in such circumstances. The reasons were not hard to find. The Department of Sanskrit and Indian Studies was so rent by factionalism that, in the evidence of Associate Dean J.F. Burke of the School of Graduate Studies, all students in the Department were frightened. Dean Burke quoted the Dean of Graduate Studies at the time, Dean Ham, as saying that in twenty-five years he had never seen anything quite like the situation in this Department. So serious were the problems that it was deemed necessary to dissolve the department and it no longer exists. Dean Burke said he had seen other cases where adversarial relations existed within departments but had never seen such a public division: one which was, in fact, forced on the students. Dean Burke pointed out that several other candidates had nevertheless succeeded in passing their oral examinations. In the Board's view, however, it does not follow from this that the circumstances had no impact. There are individuals who can overcome the most serious obstacles. The Board feels that while Ph.D. oral examinations are rigorous procedures and conditions may not always be, from the candidate's point of view, optimal, the circumstances surrounding this particular examination departed sufficiently from the norm to warrant giving the candidate a further opportunity.

The principal procedural irregularity relates to the outside appraisal of the appellant's thesis. The scholar selected for this role was eminently qualified in the candidate's specialty, Buddhist philosophy. At no time, however, before, during, or since the oral examination has this scholar submitted an appraisal. The rules require that appraisals be submitted at least two weeks in advance of the examination date. Dean Burke allowed that if this rule were adhered to rigidly many examinations would have to be postponed, which could be to the detriment of the candidate by holding up his or her degree. In fact, therefore, examinations are often conducted notwithstanding the breach of this regulation. Where the candidate is successful on the examination he or she will not be heard to complain about the breach. Where the appraisal is not merely late but non-existent and where the candidate fails, the candidate may well have cause to complain. While, under the existing rules of the School of Graduate Studies, the written appraisal is not made available to the candidate, it may nevertheless have a bearing on the outcome of the examination, for example, by influencing a line of questioning. It was Dean Burke's opinion that the absence of the appraisal made no difference to the outcome in this case. This may be so. The Board, however, feels that this regulation is one of some importance and its breach should not be ignored unless it is clear that it had no effect. The Board does not find it clear.

Taken together, the departures from normal conditions and procedures in this case are enough to persuade the Board that the appellant did not have an adequate opportunity on the second occasion to defend his thesis and establish his capabilities. That an adequate opportunity could have made a difference to the candidate was supported by the evidence of Professor J.G. Slater, a member of the Examination Committee, who gave the opinion that a strong defence of the thesis might have resulted in the candidate passing. As it was Professor Slater did not consider the defence strong. For this reason the Board feels the appellant should have another opportunity. The Board leaves it to the School of Graduate Studies to determine how best this may be accomplished.

Secretary
April 12th, 1979

Chairman