



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 20th October, 2023

Date of Decision: 03rd November, 2023

+ LPA 718/2023 & CM APPL. 55073/2023, CM APPL. 55074/2023

MOHAMED ANWAR Appellant

Through: Mr. Abhik Chhimni, Mr. Saharsh Saxena, Mr. Anant Khajuria, Ms. Riya Pahuja, Advocates.

versus

NATIONAL TESTING AGENCY & ANR. Respondents

Through: Ms. Seema Dolo, Advocate for NTA.
Mr. Apoorv Kurup, CGSC with Mr. Akhil Hasija, Advocates for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

SANJEEV NARULA, J.

1. The present Letters Patent Appeal is directed against the judgment dated 27th July, 2023, passed by the learned Single Judge in W.P.(C) 15279/2022,¹ rejecting the Appellant's prayer for grant of two additional marks for attempting an ambiguous question [*"impugned judgement"*].

Facts and contentions presented by the Appellant's counsel

2. The Appellant holding a Master of Arts degree, sought to apply for the position of 'Junior Research Fellowship and Assistant Professor.' To this end,

¹ Titled *Mohamed Anwar v. National Testing Agency and Anr.*



he participated in the December 2020 and June 2021 (merged) cycles of the National Eligibility Test [“NET”] for the subject of Urdu, which was held on 24th November, 2021. During this examination, he attempted Question ID No. 1955, which required candidates to identify two correct chronological sequences among options A through D, pertaining to Urdu poets/scholars. For clarity, the English translation of the question is reproduced below:

“Question ID No. 1955

Q. There are two categories in chronologically order.

(A) Mir Taqi Mir, Zauq, Meeraji

(B) Ghalib, Mir Dard, Noon Meem Rashid

(C) Khan Arzoo, Mir Taqi Mir, Mir Dard

(D) Meeraji, Noon Meem Rashid, Qayyum Nazar

Please Identify the Correct Categories:

(1) C and D

(2) A and C

(3) A and D

(4) B and C

1, Option ID :- 7817

2, Option ID :- 7818

3, Option ID :- 7819

4, Option ID :- 7820”

3. The Appellant selected option 3 to the afore-noted question, asserting it to be the sole correct answer on the basis of chronologies of death of the poets mentioned. However, in the provisional answer key published later by Respondent No. 1 on the official website, which was open for challenge, option 1 was designated as the correct response.

4. The final results along with the subject and category wise cut-offs were announced on 19th February, 2022, through a public notice. The cut-off for the position of Assistant Professor in Urdu subject, in the OBC (NCL) category (to which the Appellant belongs) was set at 178 marks. Appellant, who attained an aggregate of 176 marks, fell short of the qualifying criteria



by just two marks. Upon publication of the final answer key, the Appellant was astonished to find that correct answer for Question ID No. 1955 had been altered to option 2, which, as per him, is patently incorrect.

5. In such circumstances, as none of the provided options were correct, Respondent No. 1 ought to have classified Question No. 1955 as a ‘dropped question’ under Clause 4.5 of the Information Bulletin released for the concerned cycles of NET. Had this been done, under the standard protocol for scoring a dropped question, Appellant would have been awarded two additional marks, thereby rendering him eligible for the desired post.

6. On 25th February, 2022, the Appellant addressed a communication to Respondent No. 1 contesting the marking of Question ID No. 1955. He substantiated his claim with proof and evidence, arguing that option 3, his chosen answer, was the correct one. However, no response was received thereto. He then resorted to filing of RTI application(s) for information pertaining to the status of his representation. In reply, the Respondents stressed that the final answer key has been devised by subject experts, and that Respondent No. 1’s decision on the disputed questions is conclusive, as provided in the Information Bulletin. This stance failed to satisfy the Appellant’s concerns, prompting him to file W.P.(C) 15279/2022. In this petition, he sought a writ of mandamus to be issued to Respondent No. 1, directing them to award him an additional two marks for his response to Question ID No. 1955. However, after a comprehensive review of the relevant facts and applicable laws, the learned Single Judge dismissed the writ petition.

7. The Appellant’s answer is confirmed by sufficient study material, such as NCERT textbooks annexed with the appeal, and thus, cannot be deemed incorrect. In the event of any ambiguity, the adjudication should have been



based only on NCERT publications, and not alternative resources.

8. Merely because the Appellant failed to file objections to provisional answer key, he cannot be precluded from raising a challenge to the final answers notified by Respondent No. 1. Clause 16.1, which stipulates the procedure for assailing the provisional answer key, and Clause 4.5, elucidating the marking scheme, pertain to distinct causes of action and should, therefore be interpreted independently.

Analysis and Findings

9. The relevant clause of the Information Bulletin regarding marking scheme is as under:

“4.5 Marking Scheme

- i) Each question carries 02 (two) marks.*
- ii) For each correct response, candidate will get 02 (two) marks.*
- iii) There is no negative marking for incorrect response.*
- iv) No marks will be given for questions un-answered/un-attempted/ marked for Review.*
- v) To answer a question, the candidate needs to choose one option as correct option.*
- vi) **If a question is found to be incorrect/ambiguous during the Key Challenge, only those candidates who have attempted the question and chosen one of the correct answers would be given the credit.** Only for dropped question(s), if any, marks will be given to all the candidates.*
- vii) In case a Question is dropped due to some technical error, full marks shall be given to the candidates who have attempted it.”*

[Emphasis Supplied]

10. The facts established before the Court confirm that the Appellant identified option 3 as the correct answer. In the provisional answer key released by Respondent No. 1, option 1 was designated as the correct answer. However, in the final answer key, option 2 was supplanted as the right



response. Subsequently, due to an ambiguity detected, Respondent No. 1 resolved to deem both options 1 and 2 as correct. Consequently, following Clause 4.5(vi), marks were accorded to all candidates who had selected either of these options. As the Appellant did not select either option 1 or 2, we concur with the learned Single Judge's conclusion that he cannot take benefit of the identified ambiguity and seek additional marks on that basis.

11. The learned Single Judge chose not to scrutinize the Appellant's claim that option 3, and not options 1 or 2, is the correct answer, stating that it falls outside the Court's jurisdiction and this should be left to the expertise of the relevant authorities. It was also noted that the Appellant failed to raise any objections during the prescribed period for challenging the provisional key. This factual aspect is not in controversy. Thus, we believe the rationale provided by the learned Single Judge is consistent with established precedents concerning the Court's jurisdiction in such matters, recognized in the impugned judgment.²

12. For the foregoing reasons, the impugned judgement, in our opinion, calls for no interference.

13. Dismissed along with the pending applications.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

NOVEMBER 03, 2023/as

² *U.P. Public Service Commission v. Rahul Singh & Anr.*, (2018) 7 SCC 254, *Ashish Singh and Ors. v. Union of India and Ors.*, DHC Neutral Citation: 2023/DHC/000778, *Atul Kumar Verma v. Union of India and Anr.*, DHC Neutral Citation: 2015:DHC:5461.