

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.2901 of 2016
Decided on :17.10.2016**

Harcharan Singh

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Vinod Sharma, Advocate
for respondent No.1-UOI.

Mr. Salil Sabhlok, Advocate
for respondent No.2-UGC.

Mr. Harsh Aggarwal, Advocate
for respondent No.3-CBSE.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks directions for removing the error in the revised answer key, so that he can become eligible for the award of the Junior Research Fellowship (JRF).

It is not disputed that in the exam conducted on 28.12.2014, he initially got 214 marks out of 350, when the result was declared on 16.05.2015. On account of various representations/objections being filed by the petitioner and others dated 09.07.2015 (Annexure P-13) supported by the due material and by the other candidates, the result of the petitioner was revised to 222 marks (Annexure P-14) in December, 2015. Resultantly, he secured 63.43% marks. However, on account of the fact that he is short by 4 marks, as the qualification for the award of JRF is 226, he approached this

Court for his grievances regarding the correction in the answer key by respondent No.3-CBSE. The exam was conducted for respondent No.2-UGC. It is, thus, apparent from the above sequence of events that in view of law settled by the Apex Court in '**Kanpur University and others Vs. Samir Gupta and others**' 1983 Supreme Court 1230, the respondents have acted on the objections and given the necessary benefits, after consulting the subject experts and the petitioner is also beneficiary as such, whereby his result stand revised from 214 to 222.

Counsel for the petitioner has vehemently pointed out that Question Nos. 21 and 43 of Paper-III and referred to the material appended as such to demonstrate that the answer keys given by respondent No.3 were not correct and if correction is made to the abovesaid Question Nos. 21 and 43, he would qualify. The Question No.21 reads as under:-

“21. In the study of personality which sequence is most appropriate:

- (A) Personality type, Personality trait, Psychoanalytic*
- (B) Personality trait, Personality type, Psychoanalytic*
- (C) Psychoanalytic, Personality type, Personality trait*
- (D) Psychoanalytic, Personality trait, Personality type”*

As per the respondents, the correct option of said question is option 'C', whereas as per the petitioner it is option 'A'. Reference has been made to the material at page No.140, 141, 193 and 209 to show that the text books suggested that the sequence given in option 'A' was better.

A perusal of the said material would go on to show that the material does not demonstrate as such that which is the most appropriate sequence. It only shows the types of theories and on the basis of the said

sequence shown the petitioner is seeking the correction of the answer key. The mistake as such does not seem to be as apparent on the face of the record, which would warrant interference by this Court with the opinion of the subject experts.

Similarly, for Question No.43, which reads as under:-

“ 43. Which of the following is a characteristic of distance education?

(A) Education that involves the use of computer

(B) Teacher and students are connected through an off campus location

(C) Flexibility in time and space for relating teachers and learners

(D) Exchanging students from one campus to the other”

The respondents have given the correct option as option 'C' pertaining to the characteristic of distance education. The petitioner claims that the option 'A' would be a correct option also.

On the plain reading of the said options given above, this Court is not convinced with the argument raised as such. The option given 'Flexibility in time and space for relating teachers and learners' would be a better characteristic of distance education as such.

The view taken by the Apex Court in '**H.P. Public Service Commission Vs. Mukesh Thakur and another'** 2010 (6) SCC 759 is that it is not for the court to take upon itself the task of an Examiner. The relevant paragraph reads as under:-

“12. In the facts and circumstances of the aforesaid case, three basic questions arise for consideration of this Court:-

(i) As to whether it is permissible for the court to take the task of Examiner/Selection Board upon itself and examine discrepancies and inconsistencies in the questions paper and valuation thereof.

(ii) Whether Court has the power to pass a general order restraining the persons aggrieved to approach the court by filing a writ petition on any ground and depriving them from their constitutional rights to approach the court, particularly, when some other candidates had secured the same marks, i.e., 89 and stood disqualified for being called for interview but could not approach the court.

(iii) Whether in absence of any statutory provision for revaluation, the court could direct for revaluation.

13. In the instant case, the High Court has dealt with Question Nos.5(a) & (b) and 8(a) & (b) and made the following observations:-

"We perused answer to Question No.5(a) and 5(b) and found that the petitioner has attempted both these answers correctly and the answer to Question No.5(b) was as complete as it could be. Despite the petitioner having attempted a better answer to Question No.5(b) than the answer to Question No.5(a), the petitioner has been awarded 6 marks out of 10 in answer to Question No.5(b) whereas he has been awarded 8 marks in answer to Question No.5(a). Similarly in answer to Question No.8(a) and 8(b) the petitioner has fared better in attempting an answer to Question No.8(b) rather marks out of 10 marks in answer to Question No.8(b) whereas he got 5 marks out of 10 marks in answer to Question No.8(a)."

14. It is settled legal proposition that the court cannot take upon itself the task of the Statutory Authorities."

Similarly, the Apex Court in '**Basavaiah (Dr.) Vs. Dr. H.L.**

Ramesh and others' (2010) 8 SCC 372 has held that the Courts are not to substitute the opinion of the subject experts and interfere in such matters when no malafides have been alleged against the experts. The petitioner is similarly placed as the other candidates who attempted the questions and have been given marks accordingly. The relevant observations read

as under:-

“21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.”

The Division Bench of this Court in ***LPA No.1956 of 2012 'Sameer Khurana and others Vs. Board of School Education Haryana and others' decided*** on 16.01.2013 has also followed the same view of which the undersigned was a member.

Resultantly, this Court is of the opinion that no such error on the face of the record has been pointed out, which would warrant interference by this Court under Article 226 of the Constitution of India. Accordingly, the present writ petition is dismissed.

OCTOBER 17, 2016

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No