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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 492/2016 & CM No.32280/2016 (*delay*)

Date of Decision: 05.09.2016

SACHIN

.....Appellant

Through: Mr. Krishan Kumar

Versus

DEPUTY SECRETARY (EXAMS) & ORS

....Respondents

Through: Mr.Vaibhav Kalra, Advocate for R1-3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

: **Ms.G.ROHINI, CHIEF JUSTICE (*Oral*)**

1. The appeal is preferred against the order of the learned Single Judge dated 11.05.2016 in W.P.(C) No. 10650/2015. The unsuccessful petitioner is the appellant before us.

2. The appellant/writ petitioner had appeared for the Joint CSIR-UGC Test for Junior Research Fellowship and Eligibility for Lecturership (NET) Exam held on 21.06.2015 for the subject of Mathematical Sciences. Being unsuccessful in the said exam, she filed W.P.(C) No.10650/2015 seeking a direction to the respondents to award marks to her for placing and selecting invalid question No.31 in Part 'B' or nullifying the marks of the said question from total marks and re-calculate new minimum cut-off percentage marks of Joint CSIR-UGC Test for JRF and Eligibility for Lecturership (NET) Exam for Mathematical Sciences subject held on 21.06.2015.

3. The learned Single Judge dismissed the writ petition holding:

“15. This Court is also of the opinion that Question No.31 of Part ‘B’ of the question paper has not caused any confusion to the petitioner as she did not mark either of the correct options i.e., Option No.1 or Option No.2. In fact, as the petitioner was not aware of either of the correct answers, it is not understood as to how the petitioner can claim that she spent excessive time in answering the said question.

16. This Court is of the view that a question cannot be declared invalid simply because it is found to have more than one correct answer as the respondent has awarded marks to all the candidates who had attempted either of the correct options.

17. Further, the respondent-CSIR’s decision to award marks to candidates who had opted for either of the correct options is not in violation of Instruction No.6 of the Test Booklet, but is in line with the principle of fairness and justice.

18. Consequently, the petitioner’s arguments that all candidates who had attempted Question No.31 should be awarded marks, is not correct. In fact, if all the options to Question No.31 were wrong, then only marks could have been awarded to all the candidates.”

4. We have heard the learned counsel for the parties and perused the material available on record.

5. It is no doubt true that there were more than one correct answer, i.e., Options 1 & 2 for Question No.31 of Part 'B' which was in contradiction to the Instruction 6 of the Test Booklet which reads as under:-

“6. Below each question in Part ‘A’ and ‘B’, four alternatives or responses are given. Only one of these

alternatives is the “correct” option to the question. You have to find, for each question, the correct or the best answer. In Part ‘C’ each question may have ‘ONE’ or ‘MORE’ correct options. Credit in a question shall be given only on identification of ‘ALL’ the correct options in Part ‘C’. No credit shall be allowed in a question if any incorrect option is marked as correct answer”

6. However, the fact remains that the appellant/writ petitioner left out the two correct choices, i.e., Options No.1 & 2 and instead marked Option No.3. The appellant/writ petitioner on declaration of result found out that marks for the said question were allotted to only those candidates who had selected Option No.1 or Option No. 2. Subsequent to this, appellant claims to have made various representations to the respondents and then came up with the writ petition alleging that the respondents failed to respond.

7. Mr.Krishan Kumar, who appeared for the appellant/writ petitioner submitted that Question No. 31 in Part ‘B’ of the said Exam is in violation of the Instruction-6 of the Test Booklet as it has more than one correct option. He further submits that due to excessive time being lost in solving Question No.31, the appellant/writ petitioner failed to attempt fifteen questions of Part ‘A’ and five questions of Part ‘B’.

8. Having taken note of the discrepancy, the respondents vide Minutes of Meeting dated 19.08.2015, took a policy decision to award three marks to all the candidates who had opted for either option No.1 or option No.2, the same being in conformity with the Instruction No.6, cannot be held to be illegal on any ground whatsoever.

9. Admittedly, the appellant did not mark either of the two correct options. Hence, the learned Single Judge had rightly dismissed the writ petition.

10. We do not find any justifiable reason to interfere with the order under appeal.

11. Accordingly, the appeal is dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 05, 2016

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