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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) Nos.8055/2015, 8847/2015 & 9267/2015**

Date of decision: 12th May, 2016

+ W.P.(C) 8055/2015, CM No.16629/2015

PRABHA DEVI AND ORS. Petitioners
Through: Mr. Shanker Raju with Mr. J.S.Mann,
Mr. Nilansh Gaur &
Ms. Himankita Saini Gaur, Advs.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: Mr. Devesh Singh, ASC for GNCTD.
Ms. Mansi Gupta, Adv. for SDMC.

+ W.P.(C) 8847/2015, CM No.19824/2015

MANJEET & ORS Petitioners
Through: Mr. Shanker Raju with Mr. J.S.Mann,
Mr. Nilansh Gaur &
Ms. Himankita Saini Gaur, Advs.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Satyakam, ASC for R-1 & 2/GNCTD
with Mr. Nilesch Kumar,
Office Superintendent.
Mr. Ajay Digpaul with
Ms. Mohita, Advs. for R-3/SDMC.

+ W.P.(C) 9267/2015, CM Nos.5310-5311/2016

RAVI RAJ & ORS Petitioners
Through: Mr. Jasbir Singh Malik, Adv.

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Peeyoosh Kalra, ASC with
Ms. Mahua Kalra, Adv. for R- 1 & 2.
Mr. Jayendra, Adv. for SDMC.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J. (ORAL)

1. The aforesaid three writ petitions impugn a common order dated 27th May, 2015 passed by the Principal Bench of Central Administrative Tribunal, New Delhi ('Tribunal' for short) in several OAs raising identical or similar issues.
2. In the present set of writ petitions, we are concerned with only one facet or issue decided by the Tribunal in the impugned order with which the petitioners are aggrieved.
3. In order to appreciate the controversy, we would set out the relevant facts. By advertisement No.004/2009, Delhi Subordinate Services Selection Board of the Government of NCT of Delhi ('DSSSB' for short) had invited applications for the post of Teacher(s) (Primary) vide Post Code 70/09. The petitioners herein had applied for the said post and had participated in the objective type multiple choice questions test held in terms of the corrigendum dated 4th March, 2014. The minimum qualifying marks prescribed were 40% for general category and 30% for reserved category candidates. The petitioners herein did not secure

the aforesaid qualifying marks and hence were not included in the select list, although all the vacancies as advertised could not be filled. The subject matter of the present writ petitions arises from the findings and decision recorded in paragraphs 31 to 33 of the order of the Tribunal:-

“31. Another vital issue raised in the OA was regarding the situation cropped up on account of two questions being found confusing i.e. according to applicants the questions had two correct answers. The stand of counsel for the applicants is that when the questions were wrong, each applicant should have been given 2 grace marks. The respondents have dealt with the situation by reducing the total marks from 200 to 198 and the qualifying mark are computed with reference to total 198 marks instead of 200 marks. The confusion in certain questions in any examination is an accidental and speculative situation. No hard and fast rules or guidelines can be laid down to deal with such kind of situation and it is for the concerned administrative authority or recruiting agency to evolve a solution to the problem with reference to the given circumstances. They may:-

- (i) Cancel the examination itself;*
- (ii) Give grace marks to all the candidates*
- (iii) Reduce the total marks and may not give any credit to the confusing/wrong question.*

32. Once an authority takes a decision to evolve one of the apposite possible methods to solve the problem, the same should not be judicially interfered with. When the confusion was regarding two questions only and instead of giving advantage to all the candidates, as a grace, the respondents preferred to make realistic assessment of the suitability of the candidates i.e. they decided to give credit only to those candidates

*who actually attempted the questions, no fault can be found with them. Such proposition came up for adjudication before Hon'ble High Court of Judicature at Bombay in Writ Petitioner No.2209/2013 (**Abhijit Uddhavrao Nikam and Ors. Vs. The Maharashtra Public Service Commission**) with Writ Petition No.2499/2013 (**Mahesh Nemchand Singhal Vs. The Maharashtra Public Service Commission**) and their Lordships viewed that the corrective action of deletion of the question adopted by the respondent could not be found arbitrary and the course of corrective action proposed by the respondents for allotment of marks to all the incorrect questions to every candidate could not have been a solution to the problem. Para 7 of the judgment reads thus:-*

“7. The petitioners have not been able to establish that the corrective action of deletion of the questions adopted by the respondent is either arbitrary or contrary to law. The course of corrective action proposed by the petitioners of allotment of marks to all the incorrect questions to every candidate could not have been a solution to the problem. Since the evaluation of the papers involved negative marking, allotment of marks to incorrect questions would not have benefited everybody equally. With deletion of the questions and the marks therefore not only the marks allotted to the questions but also the negative marking wherever given got deleted thereby bringing all the candidates to the same level or position. The assessment of the candidates then was only on the basis of the remaining questions that had been attempted by them. Since, there is neither any arbitrariness nor illegality in the course of action adopted by the respondent, there cannot be any judicial interference with the same. In the circumstances,

we find no merit in the petitions. The Writ Petitions are therefore dismissed with no order as to costs.”

33. Being bound by the view taken by the Hon’ble High Court (ibid), we cannot interfere with the act of the respondents to not award grace marks to every candidate and deduct the total marks by two. In view of the abovementioned, we are not inclined to grant the relief sought in these Original Applications. The same are accordingly dismissed.”

4. The respondent, i.e. the DSSSB, had deleted two questions as a result of which the total marks were reduced from 200 to 198. Accordingly the qualifying 40/30% marks were computed with reference to a total of 198 questions of one mark each and not 200 questions. Thus the candidates were required to have a minimum qualifying score of 40/30% marks out of 198 marks. The contention of the petitioners is that candidates should be allotted or given one mark for each of the two deleted questions. In other words, each candidate who had participated in the examination would be entitled to one extra percentage point or two marks for the two questions that were deleted.

5. The Tribunal has rejected the prayer for grant of/awarding two marks for the deleted questions, relying on the decision of the Bombay High Court in WP(C) No.2209/2013, ***Abhijit Uddhavrao Nikam and Ors. Vs. The Maharashtra Public Service Commission*** dated 20th June, 2013. The aforesaid decision had upheld the decision of the respondents therein of assessment based on the remaining questions. The procedure adopted in not

awarding or giving full marks for deleted questions it was observed was not arbitrary or illegal. Therefore, there would not be any judicial interference.

6. Learned counsel for the petitioners have submitted that the reasoning given by the Tribunal in the aforesaid paragraphs is not in consonance with the reasoning given by the Delhi High Court in ***Salil Maheshwari Vs. The High Court of Delhi & Anr., 2014 (145) DRJ 225*** wherein an identical question had arisen and it was held that each candidate should be awarded one mark for each deleted question. Reliance is also placed on the decisions of the Supreme Court in ***Subhash Chandra Verma and Ors. Vs. State of Bihar and Anr. 1995 Supp (1) SCC 325*** and ***Abhijit Sen Vs. State of U.P. & Ors., 1984 (2) SCC 319***. Mr. J.S. Mann, Advocate had submitted that in some cases the candidates had correctly answered the two questions which have been removed/deleted on account of the fact that there were two possible correct answers. He submits that in this manner the right answer given by the said candidates was not awarded any mark.

7. Learned counsel appearing for the respondents, on the other hand, has relied upon the decisions of the Supreme Court in ***Kanpur University, Through Vice-Chancellor & Ors. vs. Samir Gupta & Ors., (1983) 4 SCC 309*** and judgment of the Delhi High Court in ***Gunjan Sinha Jain vs. Registrar General, High Court of Delhi, 2012 (188) DLT 627***.

8. As noticed above, the issue in question is narrow and limited. The petitioners claim that each candidate should be given

one mark for each deleted question and there should not be any negative mark for the deleted questions, whereas the respondents submit that the deleted questions were removed and should not be taken into consideration for ascertaining whether the candidates had secured the minimum eligibility cut off marks of 30% or 40%. The present situation arises for the reason that the candidates did not qualify and secure the stipulated minimum qualifying marks and hence several vacancies could not be filled up. This is not a case wherein the candidates had qualified the prescribed benchmark but were not shortlisted for the second stage examination/viva voice. This relevant fact has to be kept in mind when we examine the decisions relied upon by the counsel. In the later case, the issue of awarding an additional mark or deleting the question altogether may be of academic interest, as it would not make any difference to the select list of candidates eligible for the second stage examination/viva voice.

9. In ***Kanpur University (supra)*** an identical issue had arisen and the Supreme Court had held as under:-

“18. If the State Government wants to avoid a recurrence of such lapses, it should compile under its own auspices a text-book which should be prescribed for students desirous of appearing for the combined Pre-Medical Test. Education has more than its fair share of politics, which is the bane of our Universities. Numerous problems are bound to arise in the compilation of such a text-book for, various applicants will come forward for doing the job and forces and counter-forces will wage a battle on the question as to who should be commissioned to do the work. If the

State can succeed in overcoming those difficulties, the argument will not be open to the students that the answer contained in the text-book which is prescribed for the test is not the correct answer. Secondly, a system should be devised by the State Government for moderating the key answers furnished by the paper setters. Thirdly, if English questions have to be translated into Hindi, it is not enough to appoint an expert in the Hindi language as a translator. The translator must know the meaning of the scientific terminology and the art of translation. Fourthly, in a system of 'Multiple Choice Objective-type test', care must be taken to see that questions having an ambiguous import are not set in the papers. That kind of system of examination involves merely the tick-marking of the correct answer. It leaves no scope for reasoning or argument. The answer is 'yes' or 'no'. That is why the questions have to be clear and unequivocal. Lastly, if the attention of the University is drawn to any defect in a key answer or any ambiguity in a question set in the examination, prompt and timely decision must be taken by the University to declare that the suspect question will be excluded from the paper and no marks assigned to it."

(underlining added)

The last and emphasized portion of the said quotation lays down a ratio that a wrong question should be deleted and excluded from the paper and no marks should be assigned to it. It should be treated as a zero mark question. This rule or ratio was adopted by the respondents in the present case. In the aforesaid quotation from **Kanpur University (supra)**, the Supreme Court has elucidated that care should be taken to ensure that the questions included in a multiple choice objective type test do not have ambiguous import,

as the said system of examination involves merely marking the correct answer. There should not be scope for reasoning or argument and the answer should be either 'yes' or 'no'. The questions should be clear and unequivocal. In an earlier portion of the same judgment, the Supreme Court had observed:-

“15. The findings of the High Court raise a question of great importance to the student community. Normally, one would be inclined to the view, especially if one has been a paper setter and an examiner, that the key answer furnished by the paper setter and accepted by the University as correct, should not be allowed to be challenged. One way of achieving it is not to publish the key answer at all. If the University had not published the key answer along with the result of the test, no controversy would have arisen in this case. But that is not a correct way of looking at these matters which involve the future of hundreds of students who are aspirants for admission to professional courses. If the key answer were kept secret in this case, the remedy would have been worse than the disease because, so many students would have had to suffer the injustice in silence. The publication of the key answer has unravelled an unhappy state of affairs to which the University and the State Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the system of examinations which they conduct. What has failed is not the computer but the human system.

16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. We agree that the key-answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to

be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text-books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.

17. Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for admission to the Medical Colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text-books. Those text-books support the case of the students fully. If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong.”

10. The petitioners, referring to paragraph 17 of the aforesaid judgment, argue that they are being unduly penalized by not being given additional marks for the deleted questions. Once the questions are deleted the candidates are prejudiced and suffer for the score obtained by the said candidates is to be decided out of the remaining questions. This disadvantage can be rectified by awarding additional marks and not by treating the questions as zero mark questions. It is difficult to accept the said proposition as universally applicable. The earlier quoted observations in **Kanpur**

University (supra), it is apparent, were with reference to ambiguity in the questions itself. In such a situation it was directed that the question should be deleted and treated as a zero mark question. This principle, it appears has been extended, as noticed below, to two or more ambiguous suggested answers in multiple choice objective type tests. *Kanpur University* (supra) was relied upon by the Delhi High Court in *Gunjan Sinha Jain* (supra) with reference to situations where a question has two possible answers and it was observed as under:-

“.....But, as there cannot be two correct answers for the same question in the scheme of the 'OMR Sheet' based test, the question would have to be removed from consideration so that neither those candidates who chose option (1) nor those who chose option (4) are negatively marked.”

Thereafter, the Division Bench of the High Court on the question of marking and award of marks had given the following directions:-

79. Let us first consider the condition with regard to minimum qualifying marks. When there were 200 questions, the maximum possible marks were 200 on the basis of one mark for each correct answer. Consequently, the minimum qualifying marks for general candidates was 120 (60% of 200) and for reserved candidates it was 110 (55% of 200). Because we have directed that 12 questions be removed from the purview of consideration for the purposes of re-evaluation, the minimum qualifying marks would also change. It would become 112.8 (60% of 188) for general candidates and 103.4 (55% of 188) for the reserved categories.

A reading of the aforesaid paragraph from ***Gunjan Sinha Jain*** (supra) would clearly illustrate and show that in the said case, the deleted questions had to be removed and treated as zero mark questions. No marks were to be awarded for the said questions. Qualifying or merit marks had to be awarded on the basis of answers to the remaining questions. Thus, the aforesaid judgment supports the view and the reasoning given by the Tribunal and also the stand taken by the respondents.

12. Learned counsel for the petitioners, however, submits that the decision in ***Salil Maheshwari*** (supra) takes a contrary view and our attention is drawn to paragraph 22 of the said decision which is as under:-

“22. The very finding that a key answer is not the objective, single, correct answer of the four options provided, and that another answer is "correct" according to those well-versed in the subject, itself would merit the awarding of additional marks to candidates who had chosen the latter answer. There arises no need to "evaluate" or examine a response of a candidate for a second time, since all candidates who have answered in accordance with the answer key that the experts in the field affirm, are automatically entitled to the award of additional marks. The precedents on re-evaluation are only applicable in the context of examinations which permit subjective written answers, and not objective, multiple-choice questions that permit the selection of just one "correct" answer.” (underlining added).

13. In ***Salil Maheshwari*** (supra) reference was made to ***Gunjan***

Sinha Jain (supra). In *Salil Maheshwari (supra)* the writ petition was dismissed. Further the candidates had secured the minimum cut off eligibility marks but were not short listed as they had not secured adequate merit rank. Short listing was on comparative merit rank, as the candidates eligible for second stage were not to exceed 10 times the number of the vacancies advertised. Pertinently, as the writ petition was dismissed, the question of grant of additional marks or zero marks was not an issue to be determined as in the present case. However, we have taken note of the aforesaid observations.

14. Our attention is also drawn to paragraph 12 in *Salil Maheshwari (supra)*, which reads as under:-

*“12. Three propositions of law emerge from Kanpur University (supra), on the permissible extent of judicial review of an answer key. First, the answer key must be presumed to be correct and must be followed, even in the face of a mere doubt, second, only if a key answer is demonstrably wrong, in the opinion of a reasonable body of persons well-versed in the subject, it may be subject to judicial review, and third, if the answer key is incorrect beyond doubt, then a candidate cannot be penalised for answers at variance with the key. This position was reiterated in *Manish Ujwal and Ors. v. Maharishi Dayanand Saraswati University and Ors.*, (2005) 13 SCC 744 and *DPS Chawla v. Union of India*, 184 (2011) DLT 96.”*
(emphasis supplied)

We have already examined the said aspect and observe that it cannot be stated as a precept that prejudice was caused to the petitioners herein as two questions were deleted but additional

marks were not awarded and the deleted questions were treated as zero mark questions. This would be contrary to the ratio and view expressed in ***Kanpur University*** and ***Gunjan Sinha Jain (supra)***.

15. Mr. Jasbir Singh Malik, Advocate, has submitted that the Division Bench of the High Court had observed that the answer key must be presumed to be correct and therefore the petitioners who had given “correct” answers to the two deleted questions should be awarded one mark for each question. It is not possible to accept the said submission for the reason that in the present case, by applying the ***Kanpur University*** test, the respondents themselves have deleted two questions accepting that the questions are not correct. If the argument is to be accepted then the two questions should not have been deleted. They should be counted. Simply, the argument must fail.

16. Reliance placed on ***Subhash Chandra Verma (supra)*** is also misconceived and not apposite. Our attention was drawn to the following observations in the said judgment:-

“25. (3) Several controversial questions were set and in relation to some questions, there could be more than one answer: In an objective type of test, more than one answer are given. The candidates are required to tick mark the answer which is the most appropriate out of the plurality of answers. The questions and answers were prescribed by the experts in the field with reference to standard books. Therefore, it is incorrect to say that a question will have more than one correct answer. Even if the answers could be more than one, the candidates will have to select the one which is more correct out of the alternative answers. In any event, this is a difficulty felt by all the candidates......

In Shantanu Singh (Dr) vs. State of U.P., it is stated at page 87 as under:

"In proceedings under Article 226 of the Constitution it is not possible for this court to further probe into the matter and on the basis of affidavits and documents on record it has not been established that more than 6 questions had dual correct answers resulting in any disadvantage to the candidates who attempted the said questions. The University has directed that no negative marking on the disputed 6 questions should be done and as such no prejudice has been caused to the students who appeared in the examination. It is noteworthy that the University suo motu examined this aspect after the examinations were over and constituted a Committee of Experts to ensure that the students did not suffer on this score."

In the circumstances quoted above, the question of appointment of a Committee of Experts suo motu by the Commission did not arise.

It requires further to be noted that the Commission had given clear instructions to the evaluators to award full marks to the candidates in cases where (a) candidate has put tick mark against the correct answer and has also put correct answer in the box; (b) candidate has put only tick mark against the correct answer but has not written anything in the box; and (c) the candidate has written correct answer in the box but has not put any tick mark against the correct answers. No candidate was put to any disadvantage in awarding marks because of any discrepancy, ambiguity or duplicity, Moreover, there being no

negative marking, no disadvantage was caused to any candidate on this account.”

(emphasis supplied)”

The first part of the aforesaid quotation refers to a position where the candidates appear in an objective type test and are required to tick-mark the appropriate answers out of the plurality of suggestions or answers. Here, the Supreme Court has said that the correct answer would be the one prescribed by the experts in the field with reference to the standard text books. It was observed that if there are more than one correct answers, the candidate should select the answer which is more correct out of the alternative answers. In any event, this would be a difficulty felt by all the candidates. The second reasoning reflects the neutralising effect for all candidates face the same difficulty. The aforesaid observations are general observations and nothing favourable would flow to the petitioners in view of the said observations.

17. The second quote from *Subhash Chandra Verma (supra)* refers to findings recorded in *Shantanu Singh (Dr) vs. State of U.P., AIR 1993 All 1985* and the observations of the Supreme Court. A careful reading of the passage from *Dr. Shantanu Singh (supra)* would reveal that the High Court had observed that the questions did not have dual correct answers resulting in any disadvantage to the candidates. Yet the university had directed that there would not be any negative marking for the said questions. Therefore no prejudice was caused to the candidates who had

appeared in the examination. In the said discussion, the Supreme Court upheld the marking criteria adopted in respect of the said questions. Lastly, candidates in the case of ***Subhash Chandra Verma (supra)*** were required to tick mark the correct answer and also put a correct answer in the box. Thus the answers had to be given on two separate papers. Keeping in view this requirement, it was held that candidates would not be put to any disadvantage because they had marked the answer in one of the sheets and not in another.

18. The last judgment relied upon by the counsel for the petitioners is the case of ***Abhijit Sen (supra)***. This decision arises out of the same examination which was the subject matter of the judgment in the case of ***Kanpur University (supra)*** i.e. Multiple Choice Objective-type questions test for medical entrance. With reference to one question, the Supreme Court observed that there were two correct answers namely, alternative Nos. 2 and 3 but the appellant therein had marked alternative No.1. In these circumstances, the Supreme Court held that the appellant therein was not entitled to one additional mark on the ground that there were two possible correct answers. The Supreme Court observed:

“3. ...In our view both the alternatives together (alternatives Nos. 2 and 3) would be the correct answer.....

.....
In this view of the matter we do not think that either of the appellants is entitled to an addition of four marks as suggested by counsel on their behalf by reason of their answer given to Question 31.”

The aforesaid passage would therefore not be of any assistance to the petitioners, rather it would go against the submission made on their behalf.

Another passage from *Abhijit Sen (supra)* reads:-

“4. Turning to Question 100 in the Zoology paper (with which only the appellant Kumari Sunita Khare is concerned)....

In our view it is a case of tricky question being set by the paper-setter where one of the essential aspects, namely, the range has not been indicated anywhere in the question. Placed in that situation the appellant Kumari Sunita Khare was right when she ticked alternative No. 4 as being the correct answer to the question set.”

With regard to another question, the Supreme Court came to the conclusion that the appellant therein had picked and marked the right alternative and had given the correct answer. In these circumstances, the Supreme Court had directed that the appellant therein should be given one mark. A discerning reading of *Abhijit Sen (supra)* would indicate that in this case the Supreme Court had given direction for awarding an additional mark as the candidate had marked the right/correct answer. The question was not deleted. The facts of the said case and issue involved are quite distinct from the present case and therefore the direction given in *Abhijit Sen (supra)* would not be apposite and applicable to the present case.

19. A reading of the aforesaid judgments would reflect that there are four possible options available to the authorities, when they are confronted with the situation where the question(s) included in the multiple choice objective type tests is found to be incorrect,

ambiguous or the answers themselves are found to be incorrect, ambiguous or capable of dual answers. The options are; (i) the question can be deleted and treated as a zero mark question; (ii) the question though deleted, each candidate is awarded marks as if the answer was correct and without negative marking; (iii) the question is not deleted and the candidates who have given the right answer are awarded marks, but there is no negative marking; and (iv) if there are two correct suggested answers, candidates who have given any of the two answers are awarded full marks. In the latter case, possibly negative marking may not be mandated. The aforesaid options can be divided into two categories, where the question is deleted, and the question is not deleted but option Nos. (iii) or (iv) are exercised. Which of the two categories would be applicable would depend upon the question and the suggested answers. The option to be selected has to be question-wise, i.e., with reference to each question. Lastly, while selecting the option, the authorities must take into consideration two factors, first, the sanctity of the selection process should be maintained and second, the students/candidates who have appeared should not suffer objectionable prejudice and disadvantage. In the present case, the authorities have exercised the first option, the question has been deleted and treated as zero mark question. It is possible to urge that award of additional marks, i.e., the second option is the most suited and preferred option, for least possible prejudice is caused to the students/candidates when an additional mark is awarded. However, it cannot be said that the said option is the only valid and

acceptable option or when the said option is adopted, no prejudice is caused to any students/candidates. Prejudice may still be caused because students who have correctly answered the question in spite of ambiguity, etc., are denied benefit of the correct answer. As held in ***Abhijit Sen*** (supra), all the students/candidates were placed in a similar position and had felt and faced the same difficulty. In ***Kanpur University*** (supra) and ***Gunjan Sinha Jain*** (supra), the Supreme Court and High Court have preferred to adopt the first option, i.e., to delete the question and treat the question as a no mark question. Hence, the exercise of the first option *per se* would not be wrong or contrary to law. Onus in such cases would be on the candidate to show that deleting the question and exercise of the first option has caused prejudice. To establish the prejudice, the question and suggested answers, the model key and the answer given by the candidate have to be adverted to and examined. Only when the answer given it is observed, is correct or should be accepted, that additional mark(s) can be awarded. In the present case, the petitioners have alleged prejudice, but have not been able to demonstrate and show how and in what manner the method adopted, i.e., treating the two questions as zero mark questions, is required to be interfered. It would not be appropriate to reject and overturn the criteria/option exercised, by referring and relying on the general perception that the second option is the most fair and just criteria. The power of judicial review is not an alternative or an appellate power. It is only when there is an error in the decision making process, which has to be shown and established by the

petitioner, that the power is exercised.

20. The applications for impleadment are also disposed of in terms of the aforesaid.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 12, 2016/ak