

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

**Date of Order: 11.09.2017
CWP No.14544 of 2017 (O&M)**

Rekha and Ors.

....Petitioners

Versus

The State of Haryana and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Girish Agnihotri, Sr. Advocate with
Mr. Vijay Pal, Advocate for the petitioners.

Mr. R.K. Doon, AAG, Haryana.

Mr. Puneet Bali, Sr. Advocate with
Mr. Kanwal Goyal, Advocate for respondent No.3-
Commission.

AMOL RATTAN SINGH, J

1. By this petition, the petitioners seek issuance of a writ of certiorari quashing the recruitment test and the result thereof dated 01.06.2017 (Annexure P-14), conducted by the respondent Haryana Public Service Commission, as part of the selection process for appointment to 133 posts of Assistant Professors of Geography (College Cadre), as were advertised by the Commission vide an advertisement (Annexure P-1), dated 24.01.2014, with the closing date for submission of application forms being

21.02.2014 (extended thereafter upon a corrigendum being issued on 28.04.2016, till 10.05.2016).

The written examination (objective type) was eventually conducted on 05.03.2017.

The contention of the petitioners is that out of 100 questions framed, 46 questions were either wrongly answered as per the answer key relied upon by the Commission, or were ambiguous questions.

It was further contended that, in fact, when such a large number of wrong questions were found to have been framed or wrong answers given, even in respect of the selection process for posts of Assistant Professors in the subjects of Sanskrit, Physics, Mathematics and Psychology, the Commission itself had cancelled those tests, vide its notices published on 05.12.2016 and 18.05.2017.

2. As noticed in the previous order passed by this Court on 11.08.2017, the petitioners had sought the opinion of Prof. Majid Husain, initially stated to be a Professor in the Geography Department of the Jamia Millia Islamia (Central University), Delhi, but later on found to be actually a former Professor of the said department. The said opinion was sought to be placed on record by way of CM no.10569 of 2017.

As per the said professors' opinion, 12 questions were wrongly framed or the answers thereto were ambiguous; 13 questions were in fact completely wrongly answered in the answer key and 6 questions were found to have spelling mistakes. The following are the aforesaid questions, all from the Question Booklet, Series B:-

Sr. No.	Question nos.	Category
1	Q. 1	Wrong/Ambiguous Questions Answers
2	Q.16	
3	Q.17	
4	Q.24,	
5	Q39	
6	Q.54	
7	Q.63	
8	Q.66	
9	Q74	
10	Q.81	Wrong/Ambiguous Questions Answers
11	Q.79	
12	Q90	
1	Q. 4	Wrong Answer Keys
2	Q.22	
3	Q.29	
4	Q.33	
5	Q.37	
6	Q.47	
7	Q.61	
8	Q.62	
9	Q.67	
10	Q.84	
11	Q.85	
12	Q.93	
13	Q.95	
1	Q.5	Spelling Mistake
2	Q.9	
3	Q.11	
4	Q.12	
5	Q.26	
6	Q.78	
Total (12+13+6) = 31		

3. As also noticed in the same order, the learned counsel for the respondent-Commission had submitted that upon objections raised before the Commission, by various candidates, the matter had been referred to an expert committee by it and the said committee, consisting of three

Professors of the Jammu University, had found 7 questions to be incorrectly framed or the answers thereto had been wrongly given. Those were stated to be question nos.16, 17, 33, 39, 66, 85 and 95. The said 7 questions were amongst those 25 questions as were found to be ambiguous or wrongly answered by Prof. Majid Husain.

Consequently, with 6 questions on which doubts were raised by the petitioners on the basis of Prof. Majid Husains' opinion, being only due to spelling mistakes and 7 questions in any case already having been scrapped/discarded by the Commission itself, the remaining questions that the petitioners contended to be either ambiguously framed or wrongly/ambiguously answered, were 18, out of which questions no.29 and 93 were eventually not contested by the respondent-Commission to be incorrect.

3-A. This was for the reason that Mr. Girish Agnihotri, learned Senior Counsel for the petitioners, at the initial stage itself, had pointed to question no.29 (all questions being referred to being from the question book, series 'B'). Question no.29 reads as follows:-

- “29. Which is not a land-locked country?
- (A) Ethiopia
 - (B) Zambia
 - (C) Sudan
 - (D) Uganda” (English Translation)

As per the answer key relied upon by the Commission, the correct answer to the aforesaid question as above is option 'A', i.e. Ethiopia, but learned counsel, by production of a Standard School Atlas, showed that it was a visibly incorrect answer, with Sudans' north-eastern/eastern border

abutting the Red Sea and therefore, Sudan obviously not being a landlocked country, and on the other hand, Ethiopia surrounded by a land mass, including the countries of Eritrea and Somalia on its North and North-East, has no 'coastal border'. Therefore, Sudan is not a land locked country, whereas Ethiopia is.

Similarly, question no.93 reads as follows:-

“93. Generally the North direction is shown upward in the maps, because of :

- (A) North pole is upward
- (B) Political Reason
- (C) Land area is more in North
- (D) Astronomical reason” (English Translation)”

The answer as given in the answer key, by the HPSC, is ('B'), i.e. 'Political Reason', whereas as per the petitioners' it is ('D'), astronomical reason.

4. Mr. Bali, learned senior counsel for the Commission tried to justify the aforesaid answer by stating that it is given even in a standard publication that the initial reason for pointing the compass northwards is that the Greeks/other Europeans, being the first (according to them) to have discovered astronomy and also because they were of the opinion that they were the most superior humans' at that time, they considered themselves to be sitting on the top of the world which was its North, which is why the compass initially appointed towards that direction.

On query, as to whether the same reason can by any stretch of imagination hold good even today, naturally learned senior counsel very fairly admitted that whether it is the magnetic North or the actual North, the

compass would point upwards, the geographical North being on the North pole, which is obviously at the top part of the globe, i.e. the earth, the North pole in turn being relatable to the North Star.

Consequently, in today's context, obviously the reason for the compass needle pointing North is because the North is at the top of the globe, its location based on the North Star and that is why on the map the compass is always shown pointing upwards, to show the said direction, and hence the answer ('B') is at best ambiguous, but actually is wholly incorrect, in today's context. Of course, had the question been in the past tense to state as to why "Generally the North direction was shown upward in the maps," option (B) may have been the correct answer; however, the question being put in the present tense, the correct answer would naturally be option "D".

Learned counsel for the respondents did not thereafter contest the stand of the petitioners as regards question no.93.

5. Looking at these glaring discrepancies, with even the experts to whom the question paper had been referred to not having held it to be an incorrect question/answer, this Court was of the opinion that the matter be referred to another set of experts by the Court, without disclosing to whom it was being sent, till the opinion of those experts (from any University in the country) was received.

However, learned counsel for the Commission had submitted that they would show from standard books/publications that in fact the remaining questions were correctly framed and answered and therefore, no further opinion was required.

Therefore, as question nos.5, 9, 11, 12, 26 and 78 had spelling

mistakes in them, which were seen to be innocuous mistakes and it was therefore not considered necessary to deliberate any further on them, eventually the following questions, as are tabulated below, remained to be considered, as to whether they were correctly framed or their answers as per the answer key, were correct or not:-

Sr. No.	Question nos.	Category
1	Q. 1	Wrong/Ambiguous Answers Questions
2	Q.24,	
3	Q.54	
4	Q.63	
5	Q74	
6	Q.79	
7	Q.81	
8	Q90	
9	Q. 4	Wrong Answer in the Key
10	Q.22	
11	Q.37	
12	Q.47	
13	Q.61	
14	Q.62	
15	Q.67	
16	Q.84	

6. Consequently, the matter had been gone into on the basis of what was argued before this Court, with it being held vide the order dated 04.09.2017, that as regards question nos.22, 29, 54, 79, and 93 (with question no.29 being the aforesaid question on a 'land-locked country'), were either outright wrong or were questions in which two answers were

easily possible and therefore, the said 5 questions would need to be discarded by the respondent-Commission, while calculating the percentile of marks of the candidates.

On question nos.1, 24, 47, 61, 74 and 84, this Court had opined, vide order dated 04.09.2017, that the doubt raised thereto by the petitioners were wholly unfounded and therefore the answer key as also the questions were correct.

The matter had then adjourned to 06.09.2017 with further arguments to be addressed, on the correctness or otherwise of question nos.37, 62, 67 and 90.

7. However, on 06.09.2017, upon learned counsel for the Commission further submitting that he had obtained academic material to show that the opinion expressed by this Court with regard to question nos.22, 54 and 79 was not entirely correct, and therefore the said questions were correctly framed and the answers in the answer key were also correct qua those questions.

As regards question nos.29 and 93, learned counsel had not raised any doubt at that stage also.

8. Again, at that stage too, the question before this Court was whether to go into the material to be produced, itself, or to refer it to experts. However, with the subject not being a difficult one to understand and with both sides referring to publications in support of their respective stands, it was decided that individual questions on which doubt was expressed, be gone into.

The matter was then adjourned to 08.09.2017.

9. On that date, the following order was passed by this Court:-

“Vide the order dated 04.09.2017, it had been observed by this Court that as per the material shown on that date, questions nos.22, 29, 54, 79 and 93 were found to be questions which are either outright wrong or those where two answers were easily possible (i.e. as per the booklet series 'B'). Hence, it had been observed that the above five questions need to be discarded by the respondent-Commission while calculating the percentile of marks of the candidates.

However, on 06.09.2017, Mr. Goyal, learned counsel for the Commission, had stated that he had material, i.e. published research papers, to show that as regards even question nos.22, 54 and 79, the stand of the Commission was correct and that the answers were neither ambiguous nor wrong.

Today, he has referred to the said material, a copy of which has been supplied to the learned Senior counsel for the petitioners, the first of which, i.e. question no.22, reads as follows:-

“22. The highest salinity is found between:

- (A) 10° N and 10° S
- (B) 10° and 15° N
- (C) 15° and 20° N
- (D) 20° and 25° N” (English Translation)

(It is to be noticed that learned counsel on both sides are *ad idem* that there are no discrepancies in the English translation thereof and consequently, the Hindi translation is not being reproduced.)

On the aforesaid question, Mr. Goyal has referred to a book titled as Physical Geography by Dr. Savindra Singh, M.A., D.Phil, Professor & Head (Retd.) Department of Geography, University of Allahabad. Chapter 26 of the said book is on Salinity, with Clause 26.5 being on Distribution of Salinity.

Mr. Goyal first refers to sub-clause 1(i) which reads as follows:

“1. Horizontal Distribution

Horizontal distribution of oceanic salinity is studied in relation to latitudes but regional distribution is also considered wherein each ocean is separately described. Similarly, the pattern of spatial distribution of salinity in enclosed seas, partially enclosed seas and open seas is also considered.

(i) Latitudinal distribution- On an average, salinity decreases from equator towards the poles. It may be mentioned that

the highest salinity is seldom recorded near the equator though this zone records high temperature and evaporation but high rainfall reduces the relative proportion of salt. Thus, the equator accounts for only 35°/oo salinity. The highest salinity is observed between 20°-40° N (36°/oo) because this zone is characterized by high temperature, high evaporation but significantly low rainfall. The average salinity of 35°/oo is recorded between 10°-30° latitudes in the southern hemisphere. The zone between 40°-60° latitudes in both the hemispheres records low salinity where it is 31°/oo and 33°/oo in the northern and the southern hemispheres respectively. Salinity further decreases in the polar zones because of influx of melt-water. On an average, the northern and the southern hemispheres record average salinity of 34°/oo and 35°/oo respectively. On the basis of latitudinal distribution of salinity four zones of oceanic salinity may be identified e.g. (i) equatorial zones of relatively low salinity (due to excessive rainfall) (ii) tropical zone (20°-30°) of maximum salinity (due to low rainfall and high evaporation), (iii) temperate zone of low salinity, and (iv) sub-polar and polar zone of minimum salinity.”

He thereafter refers to salinity specific to particular oceans, i.e. Pacific Ocean and the Atlantic Ocean, wherein it was stated by the author as follows:-

“Pacific Ocean

There is wide range of salinity difference in the Pacific Ocean because of its shape and larger areal extent (fig. 26.1). Salinity remains 34.85°/oo near the equator. It increases to 35°/oo between 15°-20° latitudes in the northern hemisphere but it becomes still higher (36°/oo) in the southern Pacific Ocean between the same latitudes. Salinity again decreases further backward in the western parts of the Pacific where it becomes 31° /oo in the Okhotsk Sea and 34°/oo near Manchuria because of influx of melt water brought by the Oyashio current coming from the Bering Strait and ...weakening(sic) of Kuroshio warm current. Salinity also decreases along the Californian, Middle American and Peruvian Coasts due to transfer of water and upwelling of cold water from below. Just to the south of high salinity zone (between 15°-20° S) in the southern Pacific as referred to above (36°/oo) it becomes low along the Peruvian and Chilean coasts (33°/oo). Low

salinity is noted in front of river mouths (Yellow River = 30°/oo and Yangtze River = 33°/oo).

Atlantic Ocean

The average salinity of the Atlantic Ocean is 35.67°/oo. The highest salinity is not observed at the equator rather it is recorded between 15°-20° latitudes. Salinity recorded at 5° N, 15° N and 15°S as 34.98°/oo, 36°/oo and 37.77°/oo respectively indicates increasing trend of salinity from equator towards the tropics of Cancer and Capricorn. The central zone of the North Atlantic Ocean located between 20°N and 30°N and 20°W-60°W records maximum salinity (37°/oo) and it gradually decreases further northward but with varying trends....”

Thereafter, average salinity in the Indian Ocean has also been given to be 35% between 0 to 10° north, gradually decreasing in the Bay of Bengal to 33.5% at 10° north latitude to 30° north latitude, at the mouth of the river Ganga.

Thus, learned counsel for the commission submits that as per the salinity shown by the author in the Pacific Ocean, it would have to be taken to be maximum salinity between 15° to 20° latitude.

Mr. Girish Agnihotri, learned Senior Counsel appearing for the petitioners, on the other hand, points to the first part of the aforesaid reproduction from the book, wherein at the outset the author has stated that “the highest salinity is observed between 20° to 40° north (36%) because this zone is characterized by high temperature, high evaporation but significantly low rain fall.”

Thus, it would be seen that depending on the local conditions across several oceans, the degree of salinity differs even within the same latitude, when compared from ocean to ocean.

Very obviously therefore, it would seem that the initial part of the aforesaid clause, wherein it is stated that the highest salinity is between 20° to 40° north, is the average taken by the author from across the oceans of the world.

Hence, as regards question no.22, with the answer given in the key provided to the Commission being 15° to 20° north, but with the publication relied upon by the Commission itself stating to the contrary, it is held by this Court to be an ambiguous question/answer and therefore to be discarded.

2. As regards question no.54, that reads as follows:-

“54. Which country experiences the Prime Meridian?

(A) Benin

(B) Liberia

(C) Ghana

(D) Togo” (English Translation)

The correct answer as per the answer key provided to the Commission, is 'C', i.e. Ghana, whereas as per the petitioner, it is 'D', i.e. Togo.

Mr. Bali, learned Senior Counsel (assisted by Mr. Goyal), appearing for the Commission, has relied upon a map published by the Survey of India in the year of 2005, to submit that the Prime Meridian, i.e. 0° longitude, is not shown to pass through Togo at all, whereas it passes through the entire length of Ghana and therefore, Ghana is actually the correct answer.

Though the contention of Mr. Agnihotri, learned Senior counsel appearing for the petitioners, is also correct to the extent that in the Google map the Prime Meridian is shown to pass through a very small part of north-west of Togo, which according to the petitioners covers 600 kilometers, the fact remains that it passes through the entire length of Ghana and if the small length of Togo that it passes through is stated to be 600 kms, the entire length of Ghana would probably be 6000 kms., (with both figures found to be factually incorrect by this Court). In the opinion of this Court, the correct answer is as provided in the answer key, i.e. Ghana, because a student of Geography, applying for the post of an Assistant Professor of Geography, would obviously be expected to know that the visibly more correct answer would be Ghana and not Togo, the latter of which, if at all the Prime Meridian touches, is only for an extremely short distance of the country, as compared to the entire length of the country of Ghana. Hence, the contention of the learned counsel for the respondent-Commission is accepted and the answer key of the Commission, i.e. option 'C', is accepted to be the correct answer and the contention of the petitioners in that regard is rejected.

3. The third question on which this Court had given a specific opinion vide the order dated 04.09.2017, which has been doubted by the Commission, is question no.79, which reads as under:-

“79. The renowned poet Firaque Gorakhpuri by his following lines focused on:

Sar Zameene Hind par Aqwame alam ke Firaque

Carvan Baste gaye, Hindostan banta gaya

(A) Settlement

(B) Migration

(C) Population growth

(D) Foreign Invasion” (English Translation)

Mr. Agnihotri, learned Senior Counsel appearing for the petitioners, submits that the expert whom they had relied upon, i.e. Professor Majid Husain [formerly of the Jamia Millia Islamia (Central University), Delhi], has stated that the stem itself is wrong which means that the question is *ab initio* incorrect.

On query, he submits that this is for the reason that the couplet itself does not read “Carvan baste gaye”, whereas the actual words used in the original couplet were “Carvan guzarte gaye.”

Hence, the word “baste” would suggest settlement and not “migration”, with “migration” shown to be the correct answer as per the answer key provided to the Commission by its experts.

Mr. Bali, learned Senior Counsel for the Commission, on the other hand, submits that firstly, as per all text books published by the NCERT, which he has referred to in Court, the words used in the couplet are “baste gaye” and not “guzarte gaye” and secondly, even if it is to be accepted that the words in the original couplet are “guzarte gaye” and not “baste gaye”, the question itself is in reference to India being populated over the ages by the process of migration, and it is in that context that a Geography student must know the couplet.

Consequently, whether it is either of the two words hereinafore referred to, the intent is to test the knowledge of the candidate, as to the process of migration by which India came to be established, which a Geography student is supposed to know, as against the concept of “settlement”.

He further submits that it is obvious from the fact that in all the texts referred to, published by the NCERT, the couplet has been used under the chapter of “Migration” itself.

The rationale given by the learned counsel for the respondent-Commission is accepted, inasmuch as, though to a layman the difference

in wordings, i.e. “Carvan baste gaye/Carvan guzarte gaye”, can make a difference in the reference to the context itself (of whether it refers to settlement or migration), a Geography student would be expected to know as to in what context it has been asked.

That being so, the view expressed by this Court in its order dated 04.09.2017 is corrected as regards question nos.54 and 79, with the view expressed with regards to question no.22 being reiterated.

What has been held by this Court as regards question no.29 and 93, is not being contested by the respondent-Commission.

4. Coming therefore to the questions referred to in the order of 04.09.2017, which still need to be looked at in terms of material provided by the learned counsel on both sides, i.e. question nos.37, 62, 67 and 90.

Question no.37 reads as follows:-

“37. Only _____percent species of the total world species of the plant could develop in tundra climate because of severe cold and absence of sunlight.

(A) 1

(B) 3

(C) 5

(D) 8” (English Translation)

Learned Senior Counsel for the petitioners has relied upon research papers/book stated to have been obtained from the internet, published by the Department of Environment, Water, Heritage and the Arts, Government of Australia, titled as “Numbers of Living Species in Australia and the World” IInd edition, authored by D. Chapman. In the publication, the total number of plant species (as per the author), accepted in the world as in the year 2009, is 3,010,129, and as per the website of the National Geographic (Nat Geo site), also referred to by the learned Senior Counsel, the rough estimate of different vegetation in the Tundra is 1700, which would work out approximately to be 0.5% of 3,010,129.

Mr. Bali, learned Senior Counsel for the Commission, however, has again referred to a book stated to be authored by Dr. Savindera Singh (referred to earlier also), in which the total percentage of plant life in the Tundra region is shown to be 3% of the total plant life (of the world).

He submits that the aforesaid books of Dr. Savindera Singh are the same ones which have been relied upon by the petitioners, in the context of other questions.

Hence, in the absence of any empirical data shown in any publication, except the Australian publication produced before this Court and the book by Dr. Savindra Singh, (referred to in the context of different questions by the petitioners themselves), this Court would accept the answer as given in the key provided by the Commission to be 3%, even though this Court would actually have a doubt on that figure. However, the Court cannot substitute its own opinion on a statistical question, in the absence of authentic empirical data, in the face of an opinion of a Professor of the Department of Geography of the Allahabad University, especially as the said Professors' publications have been relied upon by the petitioners in the context of other questions, as already said.

Hence, the contention of the Commission is accepted.

As regards question nos.62, 67 and 90, since a long time has been spent on looking at the books relied upon by both sides on the first question itself, i.e. question no.37, with opposing views given, adjourned to 11.09.2017 for consideration.”

10. In continuation of that order, dated 08.09.2017, as regards question No.62 of Booklet Series Code B, it reads as follows:

“62. The intensive cultivation of vegetables, fruits and flowers in the periphery of cities in USA is called:

- (A) Truck Farming
- (B) Factory Farming
- (C) Market Gardening
- (D) Agri-farming ” (English Translation)

Sh. Puneet Bali, learned senior counsel appearing for the respondent-Commission, has pointed first to a photo copy of the relevant extract of Longmans' Dictionary of Geography, wherein Truck Farming is defined as follows:-

“Truck farming (American) the cultivation of vegetables and fruit for market. Truck farming differs from British market gardening mainly in that it is on a larger scale, there is a concentration on one or more crops, and the

distance of the enterprise from the market is greater.”

Similarly, in the extract of a book by Professor Majid Hussain (the expert relied upon the petitioners), titled Agricultural Geography, at page 77 thereof, it has been stated as follows:

“Truck farmers specialize in intensively cultivated fruits, vegetables, and vines.”

Again, in the Penguin Dictionary of Geography, truck farming (American) has been defined to be “cultivation of vegetables and fruits for market. Truck farming differs from British MARKET GARDENING mainly in that it is on a larger scale, there is a concentration on one or more crops, and the distance of the enterprise from the market is greater”.

On the other hand, learned senior counsel for the petitioners relied on a publication stated to have been issued by the NCERT, 'Fundamentals of Human Geography', wherein, as already noticed in the earlier order, market gardening has been defined to be activities specializing in the cultivation of high value crops such as vegetables, fruits and flowers, solely for the urban markets. Truck farming, on the other hand, as per the said publication, has been referred to as follows:

“The regions where farmers specialise in vegetables only, the farming is known as **truck farming**.”

11. Undoubtedly, in certain cases, learned counsel for the respondent has relied upon NCERT publications and in this case, learned counsel for the petitioner has relied upon by the NCERT. Even so, the respondent-Commission having provided an answer key showing that the correct answer to question No.62 is (A), i.e truck farming, which as per three sources is seen to be the correct answer, I see no reason to agree with

the petitioners simply on the basis of the NCERT book.

Consequently, the contention of the petitioners is rejected and that of the Commission is accepted.

12. The next question to be considered on which doubt still lingers, is question No.90 which reads as follows:

- “90. The Rabaries are :
- (A) Fishermen of Kerala
 - (B) Pastoralists of Gujarat
 - (C) Pastoralists of Tamilnadu
 - (D) Shepherders of Rajasthan” (English Translation)

Learned counsel for the petitioners has relied upon a photo copy of an order of the Government of India, published in the Gazette of India Extraordinary, dated 20.10.1994, by which Raibaris have been shown at Serial No.43, clubbed with Raikas at that serial number, as an 'Other Backward Class' (OBC) in the State of Rajasthan.

Shri Bali, learned senior counsel appearing for the respondent-Commission, on the other hand, has also relied upon “The Constitution (Scheduled Tribes) Order 1950”, in which Raibaris are shown to be a Scheduled Tribe in the State of Gujarat, at Serial No.24 of that part of the order (pertaining to the State of Gujarat, i.e Part IV).

A perusal of the aforesaid 'gazetted documents' shows that obviously Raibaris are present in Gujarat and Rajasthan both, but in Rajasthan they have the status of 'Other Backward Classes' and in the State of Gujarat, they are notified as a Scheduled Tribe.

Consequently, question No.90, giving therein, as Option (B) “Pastoralists of Gujarat” and as option (D) “Shepherders of Rajasthan”, with

no other option to state that both the answers are correct, the question has to be termed as ambiguous and therefore, has to be discarded.

13. The last question on which there is a doubt still remaining, is question No.67, which reads as follows:

“67. When the supply of sand is poor and wind direction is constant, which of dunes develop?

- (A) Longitudinal Dunes
- (B) Barachans
- (C) Seifs
- (D) Parabolic Dunes” (English Translation)

Shri Agnihotri, learned senior counsel appearing for the petitioners, has relied upon an extract of a book titled as 'Geomorphology', by Professor Savindra Singh, published by the Prayag Pustak Bhawan, Allahabad, in which Barchan dunes have been defined as follows:

“Barchan dunes- Sand dunes of crescentic shape having two horns (fig 25.9) are called barchans. In fact, barchans are special types of transverse dunes. The windward side having gentle slope is convex in plan while the leeward side is concave in plan with steep slope. The horns always project downwind. Transverse dunes are transformed into barchans (Turkish word barkan meaning thereby sandhill) when sand supply becomes more limited downwind. They are formed in groups when there is ample supply of sands. Isolated barchans are formed when the supply of sands is inadequate. The crest of a barchan is divided into two horns downwind due to dominant prevailing winds, wind eddies and limited supply of sands.”

(Emphasis applied in this order)

He, thus, submits that it having been stated in the aforesaid description of the said kind of sand dunes, that they form “when sand supply becomes more limited downwind”, it means that the correct answer to the aforesaid question is at Option (B).

Shri Bali, learned senior counsel appearing for the respondent-Commission, on the other hand points to, firstly, the same very publication relied upon by learned counsel for the petitioner, wherein in the next sentence itself, after the word “downwind”, it is stated that “They are formed in groups when there is ample supply of sands”.

He further points to the same NCERT publication as he relied upon in the earlier question, i.e. 'Fundamentals of Physical Geography', wherein in Chapter 7 pertaining to Landforms and their Evolution, barchans are described as follows:

“Crescent shaped dunes called barchans with the points or wings directed away from wind direction i.e downwind from where the wind direction is constant and moderate and where the original surface over which sand is moving is almost uniform.”

In the same paragraph, 'Longitudinal Dunes' are also described as follows:

“Longitudinal dunes form when supply of sand is poor and wind direction is constant. They appear as long ridges of considerable length but low in height.”

Mr. Bali therefore submits that Longitudinal Dunes being described as those which are formed when the supply of sand is poor and wind direction is constant, and even in the publication relied upon by learned counsel for the petitioners, it not being specifically stated that the supply of sand is poor but infact it is stated that it “becomes more limited downwind” and thereafter it being specifically stated that they are formed in groups when there is ample supply of sands, the more correct answer, for a

candidate with a degree of Geography, would obviously be option (A) and not (B).

The said contention of learned counsel appearing for the HPSC is accepted and the answer given in the answer key to the said question, i.e option (A), is held to be correct in the context of the present case.

14. Mr. Agnihotri, learned senior counsel, has then referred to question nos.7, 50, 61, 83 and 100 also, to submit that the said questions were also objected to by the petitioners. He submits that question No.50 referring to the expansion of population in different continents is obviously wrong as the answer given by the HPSC is Africa, whereas as per the petitioner, it is Asia.

Other than the fact that Mr. Bali points to the publication relied upon by the petitioners themselves to show that 'Africa' is the correct answer, at this stage, after the petitioners had filed CM No.10569 of 2017, stating in paragraph 4 therein that they have now obtained a report of a subject expert of Geography, i.e Prof. Majid Husain, (stated to be formerly of Central University, Jamia Millia Islamia, New Delhi), wherein the said questions are not shown, as per Annexure P.18 annexed with the said application, to be incorrect questions/answers, this Court will not go into the issue any further, as otherwise the matter would never end, with the respondents then seeking time to obtain further material on the basis of which the said answers were given in the answer key provided by the HPSC.

Thus, with the petitioners' "own expert" not holding those questions to be wrong/erroneously framed, this Court will not go into their

correctness.

15. It needs to be stated here that other than the contention on the above given 5 questions, no argument has been raised on the remaining 3 questions as have not been discussed hereinabove, but were amongst the 16 questions remaining to be looked at, as have been given in the table in paragraph 5 of this judgment; viz questions no.4, 63 and 81.

Therefore, with no objection having been raised eventually on these 3 questions, the answers given in the answer key of the commission, are accepted to be correct.

16. Other than the issue on correct/incorrect questions/answers, Sh. Girish Agnihotri has again referred to Annexures P.15 & P.16, which is an announcement by the Haryana Public Service Commission cancelling the recruitment process for the posts of Assistant Professors (College Cadre), in the subjects of Sanskrit, Physics, Mathematics and Psychology, though no reason for such cancellation has been given in the announcements (P.15 & P.16).

However, it is not disputed even by learned counsel for the respondent-Commission, that the said selection process was cancelled on account of far too many discrepancies having been found in the answer key/questions posed in the written examination specific to those subjects.

In the present case, upon query, learned senior counsel for the respondent-Commission submits that since the number of questions now held by this Court to be discarded, are less than 15, the Commission would not scrap the examination, but would simply discard the aforesaid questions as regards all candidates, and calculate the percentile of marks of each

candidate on the basis of marks obtained in the remaining questions.

17. Consequently, it having been found by this Court, as per the material produced, that four questions (or the answer key thereto), are either wrong or ambiguous, and seven questions already having been held to be erroneous/wrong by the Expert Committee of the Respondents themselves, those 11 questions, they being Question nos.16, 17, 22, 29, 33, 39, 66, 85, 90, 93 and 95 from the Questions Series Booklet B, are directed to be scrapped while calculating the marks of the candidates. That is to say, that the said questions shall not be taken to be a part of the question paper, on the basis of which marks are to be calculated. Marks of the candidates shall be calculated on the basis of answers given to the remaining 89 questions in the written examination.

Mr. Bali, learned senior counsel appearing for the respondent-Commission, on instructions from the Deputy Secretary, Haryana Public Service Commission, submits that in order to avoid another round of litigation, a fresh interview process would not be held qua those who have already been interviewed, but instead, all those who obtain marks above the cut off mark in each category, after the process has been gone through again on re-calculation of marks in the written examination, would be called for interview.

18. Learned senior counsel, in the end has submitted that the respondent-Commission has not opposed this litigation as an adversarial litigation, and where it was found that the objections brought to the notice of this Court were genuinely not defensible at all, as in question no.29 (pertaining to a land-locked country) and question no.93 (pertaining to the

North Poles' "positioning" on maps), the Commission has not contested the issue. As such, this order of the Court may not be treated to be a precedent.

On the above argument, it is to be noticed that this order having been passed wholly in the context of the factual matrix of this case, any challenge to a selection process on similar grounds, would also depend on the facts of each case.

19. It is to be again stated here that, normally, even as per law well settled, this Court itself would not go into the issue of the correctness or otherwise of the questions framed/answers given in the answer key, and would rely upon the opinion of experts to do so, and with the matter having been referred to experts by the Commission itself, upon objections having been received from candidates, there would be normally no further call for the Court to go any further into the matter.

However, when a question is shown to be obviously wrongly answered in the answer key, either on the basis of commonly understandable material, or even as per accepted common knowledge, the Court is required to go into the issue further, either by referring it to another body of experts in the subject, or by itself, if the subject is commonly understood, though again on the basis of material placed by both sides before it, such material being authentically published papers/books of an accepted standard.

To repeat yet again; in the present case, as it was shown from a map published in a standard Atlas that question no.29 was obviously wrongly answered, and similarly, question no.93 was also found to be erroneous, and therefore also not eventually contested to be incorrect by learned counsel for the Commission, it was therefore considered necessary

to look at the other questions and answers also, on the basis of material produced before this Court.

Thus, the subject being Geography and the research material/books produced before this Court being easily understandable, the exercise was gone into in detail, with learned counsel also stating that they would produce material to support their respective contentions.

20. The question, however, would be as to whether, if the subject had been Physics, Chemistry or Mathematics etc., would this court have entered into the exercise as it did?

The answer to that would be in the negative, unless very commonly known facts were shown to be answered wrongly in the key, i.e. to common knowledge. If so, the Court may be required to look into research material on its own, if the subject is easily understandable, or otherwise refer it to University experts, perhaps without disclosing the University to which the matter is being sent, to obtain an opinion therefrom and thereafter, to compare the majority opinion of experts and hold accordingly, (with the name of the University/ expert body to be disclosed upon receipt of the opinion).

21. Having discussed the aforesaid aspect, finally, this petition is disposed of with a direction that, after the process of calculating the percentile of marks and the interview process, the final result for the posts in question be declared by the respondent-Commission.

September 11, 2017
manoj/vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable : Yes