

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

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**RSA-5028-2016
Date of Decision:2.11.2017**

MANI RAM

....APPELLANT

VS

STATE OF HARYANA & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Anurag Jain, Advocate
for the appellant.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the appellant. The appellant was working as a Clerk and for promotion to the post of Section Officer one of the requirements was to pass SAS exam. He filed the suit claiming that one of his questions had not been checked and praying that the concerned respondents be directed to have the paper rechecked (questions No. 2-B Part (iii)). Another allegation made was that the respondent No.5 had been wrongly given the benefit and had been allowed to steal a march over him and was promoted. The Courts below found that the question with respect to which the appellant had alleged in fact had been crossed with a green pen by the examiner. Both the Courts came to the conclusion that once the cross had been put on an answer it was clear that the examiner had found the answer to be wrong and mere omission to mention zero marks could not lead to the conclusion that the question had not been checked. As regards respondent No.5 both the Courts found that the benefit given to him was actually because in the award list his

marks had been mentioned as 58 instead of 78 due to clerical mistake and that had been corrected. Learned counsel has argued that it was incumbent upon the examiner to have awarded zero in case he found the answer to be wrong and the fact the zero was not awarded meant that the answer had not checked. I regret my inability to agree with this contention and endorse the decision of the Courts below. He has further argued that the appellant had exhibited the papers of two other candidates who had given the same answer to the same question and had been awarded marks whereas the appellant had been not given. The Court below have held that it is not the job of Civil Court to substitute their wisdom for that of the examiner. I endorse this finding also. The finding regarding the benefit given to the respondent No.5 is also unexceptionable.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

02.11.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No