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

+ **W.P.(C) 2863/2018 & CM APPL. 1157-58/2018**

SAPNA SETHI

..... Petitioner

Through: **Mr. Ankur Chhiber and Mr. Bhanu
Gupta, Advocates.**

versus

HIGH COURT OF DELHI

..... Respondent

Through: **Mr. Sanjoy Ghose, Advocate.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

11.01.2019

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During the course of his submissions, Mr. Chhiber, learned counsel for the petitioner, has taken us through the re-evaluation report beginning at page 145 of the record. He points out that in the question paper, the antonyms of certain words were required to be answered which included words like 'Allow' and 'Courteous'. The answers given by the petitioner were 'Disallow' in relation to the word 'Allow' and 'ill-mannered' in relation to the word 'Courteous'. They have been treated as incorrect answers. He further points out that in respect of the word 'Courteous', the antonym, as per the model answer, was taken as 'bad-mannered'. Mr.Chhiber points out that in English language there is no such word as "bad- mannered".

He further points out that insofar as the petitioner is concerned, after the process of re-evaluation, she is short by just one mark since she has been awarded 129 marks, and the last selected candidate was awarded 130 marks.

On the other hand, Mr. Ghose firstly submits that some of the candidates have preferred representations which are pending consideration before the concerned Committee. He further submits that re-evaluation has been undertaken only in respect of 13 representationists, and that too only in respect of those questions, in respect of which the model answers as prescribed by the office, were not found to be correct, and the answers suggested by those 13 candidates were found to be the correct options. He further submits that in case the process of re-evaluation is undertaken for all the candidates, it is likely that the last selected candidate, who was accommodated against the 27th vacancy (as initially advertised) may also undergo upward revision in his marks. Thus, it cannot be said that even if the petitioner were to be awarded one more mark, she would be entitled to be selected. He further submits that as opposed to 27 vacancies advertised, 34 appointments have been made after the re-evaluation process was undertaken, since 7 candidates were found to have secured more marks than the last originally selected candidate. Two candidates (out of the 45 who appeared in the examination, got promoted under the seniority quota).

Mr. Chhiber submits that the argument now raised by Mr. Ghose, that the marks obtained by the initially selected 27 candidates may also be upwardly revised if their answer-sheets were to be re-evaluated, was not taken by the respondents when the first round of re-evaluation was undertaken and 7 additional appointments were made.

We are of the considered view that the respondents cannot adopt a different yardstick at different points of time. There was nothing to prevent the respondent from undertaking the re-evaluation of the answer scripts of all the candidates, including those initially selected and appointed against

the 27 vacancies. However, in case the respondents have chosen not to disturb their appointment, evaluation of the petitioner's merit cannot be undertaken by applying a different standard. Thus, the arguments now advanced by Mr. Ghose, that the marks obtained by the last of the initially selected 27th candidate may also undergo upward revision cannot be accepted at this stage. If this submission were to be accepted, not only the appointments of the selected 27 candidates, but those of the later selected 7 candidates would also come into scrutiny. We have consciously noted hereinabove, the two instances pointed out by Mr. Chhiber where, *prima facie*, it appears to us that the answers given by the petitioner may be correct answers.

Since the concerned Committee is seized of the matter and is looking at the representations, we direct that this petition along with this order may also be placed before the Committee for its consideration.

To await the decision of the Committee, adjourned to 22.02.2019.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 11, 2019

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