IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8170 of 2015 (O&M)
Date of decision: 18.04.2022

Anil Kumar …Petitioner

Versus

State of Haryana and others …Respondents

Coram : Hon'ble Mr. Justice Arun Monga

Present : Mr. Deepak Gupta, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana, for respondent nos. 1 to 3.

Mr. D. S. Rawat, Advocate, for respondent no. 4.

Arun Monga, J. (oral)

Petitioner at the relevant time was serving as a Clerk being aspirant to become an Accountant took the State Accounts Service Part-II Examination held in July, 2011. Result was declared in October, 2011 wherein he was shown as unsuccessful having obtained 58 marks as against the minimum requisite of 60 marks to be qualified as an accountant to work in the State. This petition has been filed assailing his result.

2. Claim of the petitioner is that despite the fact that he had attempted two sub parts of question no. 5 which is split in three sub-parts i.e (a), (b) and (c), he has been awarded merely two marks for his answer thereto. He has been assessed only qua 5(a) but has not been assessed qua his answer to question no. 5(b). Concededly, 5 (c) was not attempted by him for which he has rightly not been assessed.

3. The long and short of the entire controversy is summed up by my learned brother Amol Rattan Singh, J., who on an earlier occasion having heard the case at some length, passed the following order dated 14.09.2017:-

> *"In this petition, the issue is as to whether the petitioner's answer sheet qua question no.5 has been correctly evaluated or not, in the departmental examination on advanced accountancy (Paper 3), conducted on 01.08.2011.*
>
> *Pursuant to the orders of this Court, the answer sheets have been produced in Court today, a perusal of which shows that question no.5 was divided into three parts (a, b & c). As per the answer sheet, the petitioner has attempted question No.5 in three parts, i.e (i),(ii) & (iii) but without giving any answer to (iii). Part (i) & (ii) of question No.5(a) are shown to have been corrected, by what is seen to be a tick mark by the examiner.*
>
> *Question No.5(c) is not answer and question no.5 (b) has been scored out completely as regards all five clauses, i.e (i) to (v).*
>
> *However, Sh. Bansal, learned counsel for the petitioner, submits that he had asked for re-evaluation of his paper, upon which the paper was actually sent to the examiner, who recommended that two grace marks be given to the petitioner in question no.5, so as to give a total of 40% marks to the petitioner, i.e passing marks.*
>
> *Sh. Rawat, learned counsel for respondent no.4, submits that the examiner actually stated that the said grace marks be given "if the examining board feels it fit".*
>
> *Hence, it is contended on behalf of the said respondent that since there is no provision for granting of grace marks, the said marks were not given to the petitioner.*
>
> *Learned counsel for the petitioner submits that as a matter of fact the answers to question No.5(b), in all its parts, are correct and as such, the question has been wrongly rejected by the examiner.*
>
> *Though normally this Court would not go into the question of correctness of a 'subjective type examination', but since the specific contention is that the answers are actually correct and have been wrongly scored off by the examiner, and that is why he infact recommended the grant of two grace marks, the papers are ordered to be sent back to the examiner, who would examine question 5(b) again and either give reasons as to how the answers are wrong, or if they are correct, or partly correct, he will award marks correctly.*
>
> *The question papers and answers sheets produced in the Court today have been returned to respondent No.4.*
>
> *Adjourned to 26.10.2017."*

Apropos above, I have perused question no.5 (b), which for ready reference is reproduced herein below:-

"Q. No.5 :

(b) What are the factors affecting the amount of depreciation?"

4. In response to Civil Misc. No. 17339 of 2017 filed by the petitioner, reply was filed thereto by respondent no.4. It has been stated in the reply that the correct answer to question no.5(b) is as below:-

"The right answer to question no.5 (b) is that there are four factors, which affect the amount of depreciation, namely:

1. *Cost of Asset.*
2. *Expected useful life of Asset.*
3. *Estimated Residual Value of Asset.*
4. *Method of providing depreciation.*

Method of Depreciation

1. Straight line method (SLM).
2. Written down value method (WDV)
3. Annuity method.
4. Sinking Fund Method.

$$\text{Formula} = \frac{\text{Cost of Asset} - \text{Residual Value}}{\text{Expected life of Asset."}}$$

As against the above expected answer, the petitioner has attempted question no.5(b) giving the following answer:-

"Q. No.5b

Ans. As the value of the fixed assets is regularly reduced with the passage of time which is called Depreciation. The following are some major factors affecting the amount of Depreciation.

*(i) **BY WEAR OR TEAR:** Some times the value of assets has been decreased with passage of time even then assets has not been used. That is because of Rains, Floods etc. This is a very common factor affecting amount of depreciation in fixed Assets like Buildings.*

*(ii) **BY OBSOLANCE:** It is an another factor affecting the amount of Depreciation in case of Plant and Machinery. Due to innovation of New Machine, these assets may not be more useful even they are in very good working condition.*

*iii) **CONSTANT USE**: It is a most important factor affecting the amount of Depreciation. The value of some assets decreased as per the use of these assets.*

> *iv) **DEPLETION**: It is another major factor affecting the amount of Depreciation in case of Mines and oil walls. The more we explore from mines the rate of Depreciation will be high.*
>
> *v) **ACCIDENT:** The value of asset may be decreased because of some break down in a machine as by accident to a vehicle."*

5. A perusal of the answer given by the petitioner vis-à-vis what is expected of him as per the response filed to the civil misc. application leaves no manner of doubt that the petitioner did not deserve any marks for 5(b). In the premise even if the arguments of learned counsel for the petitioner is accepted that question No.5(b) has remained unexamined, the same is of no consequence. In fact, the said argument of learned counsel for the petitioner seems to be totally incorrect inasmuch as concededly the answer-sheet reflects that the petitioner chose to answer only 5(a) and 5(b) and did not attempt to answer question No. 5(c) altogether. Resultantly, he deserves zero marks for 5(c) whatever may have been the split marks assigned out of the total marks of question no.5. As regards question No.5(a), he also gave a part response to the same which was further split in three categories as he attempted only two of the same and did not give any answer to question No.5 (a) (iii).

6. As already observed hereinabove qua answer 5(b) since the same did not match with the expectation of the examiner, he has rightly been not given any marks. Resultantly, it is clear that he has been given two marks only for having part answered 5(a)(i) and 5 (a)(ii).

7. As regards the contents of the answers attempted by the petitioner, learned counsel's contention that the same are also correct, do not convince this Court to substitute its wisdom over what is expected by the

examiner qua the response to the question. Therefore, I find no reason to interfere on that ground.

7. In the parting, learned counsel for the petitioner contends that the petitioner had represented vide Annexure P-5 to the competent authority that having obtained 58 marks, he be awarded the grace marks in terms of the applicable policy/ administrative orders /instructions and letter dated 07.10.1988 (Annexure R-1).

8. I have perused the said letter which states that in case a candidate is making a cut by providing one grace mark, he be accorded the benefit thereof. Present is the case where admittedly the petitioner has secured 58 marks and even if he is given additional one grace mark under the policy, still he will not make the cut for which minimum of 60 marks are required. Qua the other contention that one of the candidates, namely, Satish Kumar Sharma has been given 8 grace marks, valid justification has been given for the same. He had represented to the authorities that one of the questions under the Constitutional Law was since out of syllabus and upon verification his contention was upheld and indeed it was found that the question was out of syllabus and therefore as a special case 8 grace marks were awarded to him. Such being not the case herein, no ground to interfere qua the grace marks as well.

9. The writ petition is dismissed.

10. Pending applications, if any, also stand disposed of.

18.04.2022 **(Arun Monga)**
vs **Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No