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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 20.12.2023

Paramjeet Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Shakti Mehta, Advocate and
Mr. G.P. Vashisht, Advocate for the petitioner
Mr. Inderpreet Singh Kang, AAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of decision dated 21.09.2023 (Annexure P-5) whereby a committee constituted by respondent has considered answers of Question No.25 and Question No.61 of Paper 'A' and concluded that answer key is incorrect, thus, marks have been awarded to all the candidates.

2. The petitioner appeared in the departmental exam for promotion. It was a multiple choice question paper. Few candidates raised objection with respect to correctness of answers of Question Nos.25 and 61 of Paper 'A'. A committee of experts was constituted which came to a conclusion that answer key is not depicting correct position, thus, marks were awarded to all the candidates.

3. Learned counsel for the petitioner submits that on account of awarding marks to all the candidates, the petitioner has been prejudiced. He had correctly solved the questions, thus, benefit of marks could not be extended to all the candidates.

4. To test contention of the petitioner, this Court finds it appropriate to look at Question No.61 which was in dispute. The said question is reproduced as below:-

“61. Out of the following sections, what Magistrate is not authorized to take decision under Section 109 Cr.P.C.

A) Deputy Commissioner

B) Deputy Commissioner of Police

C) Judicial Magistrate First Class

D) Sub-Divisional Magistrate”

5. The petitioner is claiming that option ‘C’ was correct answer because an Executive Magistrate can exercise power conferred by Section 109 of Cr.P.C. The Judicial Magistrate is not conferred powers under Section 109 Cr.P.C. As per Section 109 of Cr.P.C., Deputy Commissioner of Police is not an Executive Magistrate, thus, option ‘B’ is also a correct answer. A notification of the State Government has empowered Deputy Commissioner of Police to exercise power under Section 109 of Cr.P.C. The petitioner is claiming that said notification is contrary to Section 109 of Cr.P.C. In these compelled circumstances, committee has decided to award marks to all the candidates who have opted option ‘B’ or option ‘C’.

6. This Court does not find any infirmity in the opinion recorded by the committee. It is even otherwise settled proposition of law that Court

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should not interfere in such matters. The petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

20.12.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>