



CWP-15159-2018(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-15159-2018(O&M)
Date of Decision: 22.05.2024

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...Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Ms. Kushaldeep Kaur, Advocate
for the petitioner.

Mr. Suneel Ranga, DAG, Haryana.

Mr. Rajesh K. Sheoran, Advocate
for respondent No.2.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *mandamus* directing the respondents to review/revise the result of HTET (Haryana Teachers Eligibility Test) Level-III, conducted on 23.12.2017, and grant provisional certificate of having qualified HTET-2017 to the petitioner to enable him to appear for interview for the post of PGT Political Science.

2. The only contention raised by learned counsel for the petitioner is that answer to question no.32 in Part-II/Languages (Hindi and English), Set-D, Level-3, is not correct as established from the literature/books placed on record. Accordingly, it needs to be reviewed, and the petitioner needs to be assigned marks for the correct answer he has given to this question. She has



placed reliance on the Supreme Court judgment in *Kanpur University and others v. Samir Gupta and others*, 1983 (4) SCC 309, to submit that in the event of answer to a question being wrong, it is open to the Court to look into correctness of the answer.

3. *Per contra*, learned counsel for the Board has referred to the written statement filed on its behalf, to contend that after declaration of result the answer key of all subjects of Level-3 (PGT) was uploaded on the Board's website, and wide publicity was also given by issuing notices in three newspapers, inviting objections/complaints from the examinees. About one hundred eighty complaints were received; the petitioner also complained with respect to answers of questions No. 14, 44 and 128 in Set-D Level-3 (PGT), vide complaint No.552. However, no complaint was received from him regarding question No.32, though other students complained about answer to this question. A committee of subject experts consisting of Head of the Departments, Professors, Associate Professors, Assistant Professors working in Universities/Colleges in the State of Haryana and other adjoining States, was constituted to analyse the answers to questions disputed by the candidates, including questions disputed by the petitioner. As per reports received from the committee of experts, no discrepancy was found in respect of answers to the disputed questions, and the answer key was found correct. Thereafter, the result was declared on 01.03.2018, and final answer key of all questions of Level-3 (PGT) was also uploaded on the Board's website. Later, some more complaints were received regarding question No.14, Set-D, from the candidates, including the petitioner, through the Chief Minister's Window. The Board again decided to analyse the answers to questions being disputed



experts. Still, no discrepancy in the answer key was found. The decision was conveyed to the petitioner in response of his complaints/RTI Applications, etc.

4. Heard.

5. Evidently, all the objections raised by the petitioner as well as other candidates regarding various questions including question No. 32 Set-D, have been examined by the subject experts twice, but no discrepancy was found and the answer key was declared correct. There are no *mala fides* alleged. As a matter of principle, the unbiased opinion of subject experts should be given due respect. Accordingly, it would not be appropriate for this Court to examine correctness of the answer so as to substitute its own opinion with that of the experts.

6. The reliance placed by learned counsel for the petitioner on *Kanpur University* case (*supra*), does not advance the petitioner's case. In CWP No.4738 of 2013 titled *Savita Kumari and others v. Board of School Education, Haryana*, this Court examined a similar issue of disputed questions in HTET-2011 conducted by the Board. After considering the *Kanpur University* case, as also the law laid down by the Supreme Court in other cases, the Court declined to interfere with the expert committee's opinion regarding correctness of the answers to the questions disputed therein. The relevant paragraphs of the said judgment read as under:

One of the questions which is highlighted by the counsel for the petitioner is relating to Hindi language. The correct answer, according to the petitioners in the NCERT book, is not one of the options given in this regard. This court certainly would not have any expertise to examine this examination in the light of



options given. It is primarily the paper setter, who would know from which angle this question was asked and in this context which option is to be treated as correct. To some what similar effect are the observations of the Hon'ble Supreme Court in *Kanpur University and others Vs. Samir Gupta and others*, AIR 1983 Supreme Court 1230. Hon'ble Supreme Court has very aptly noticed that while deciding the case Judges of the High Court had gone into linguistic niceties and had accepted the contention of the students to the effect that there was a marked difference in English and Hindi version of some of the questions. The Supreme Court further observed that normally one would be inclined to view specially if one has been a paper setter and examiner that the key answer furnished by the paper setter and accepted by the University as correct should not be allowed to be challenged. Ultimately, it is observed that no challenge should be allowed to be made to the correctness of the key answer unless on the face of it it is wrong. The relevant observations are as under:-

"We agree with the Key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of man well-versed in the particular subject would regard as correct".



In my view, the issue now is squarely settled by a recent decision of the Hon'ble Supreme Court in the case of Himachal Pradesh Public Service Commission Versus Mukesh Thakur and another, (2010) 6 SCC 759. The ratio culled out in this case is that providing selection process is the function of statutory authority and the said process should be left to that authority. In such circumstances, the court would not transpose its' opinion so as to substitute the correct answers in the 'Answer Key'. This would be binding precedent for the courts to follow. The observations made in this regard are as under:-

"The Hon'ble Supreme Court has held that court cannot take upon itself task of examiner or Selection Board and examine discrepancies and inconsistencies in the question papers and evaluation thereof. It is further observed that it is not possible for the High Court to examine question papers and answer sheets itself, particularly, when the State Public Service Commission had assessed inter se merit of the candidates."

Just to highlight the fact that it would not be appropriate for either the experts or the court to substitute its own view to find a correct answer to the question and then to compare it with the key answer, reference can be made to question No.3 where most appropriate answer was 'Ranbir Singh Hooda', who was Member of the constituent assembly. The other options were certainly not a remote possibility. This fact that Ranbir Singh Hooda is generally well known fact in this part of the region and



has been so highlighted time over again. Even this option is disputed by the petitioners. Stating that, none of the answers to this question were correct. This clearly is a misconceived perception on the part of the petitioners. It would, not, therefore, be appropriate for this court to go into this challenge in view of the law laid down by this court as well as by the Hon'ble Supreme Court.

The LPA as well as SLP against the judgment were dismissed by the Division Bench and the Supreme Court, respectively. In view of the settled law, there is no ground to entertain the petitioner's objection to the answer key.

7. Accordingly, finding no merit in the petition, it stands dismissed.
8. Miscellaneous applications, if any, also stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

22.05.2024
Aman Dua

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