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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision:-16.05.2024.***

+ W.P.(C) 7071/2024 & CM APPL. 29471/2024 -Ex. (record)., CM APPL. 29472/2024 -Ex.

NAVEEN KUMAR

..... Petitioner

Through: Mr.Manish Kumar with Ms.Gunjan Sharma, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr.Vinay Yadav with Mr.R.Venkat Prabhat, Advs & Mr.Vedansh Anand, GP for R-1.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE SAURABH BANERJEE****REKHA PALLI, J(ORAL)**

1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 10.11.2023 passed by the learned Central Administrative Tribunal(the Tribunal) in O.A.1047/2016 as also order dated 05.01.2024 whereby his review petition was dismissed. Vide the impugned order, the learned Tribunal has rejected the petitioner's/ applicant's prayer for issuance of directions to the respondents/ UOI to properly evaluate each part of the answer sheet of Paper III for the Post Graduate Teacher(PGT)(Computer Science) Examination conducted by Navodaya Vidyalaya Samiti in terms of the advertisement issued in December, 2008.

2. As per the brief factual matrix of the case as emerging from the record, upon an advertisement being issued on 27.12.2008 by the respondent/UOI for inviting applications to the post of PGT(Computer Science), the petitioner being eligible for the said post, applied to the



Navodya Vidyalaya Samiti and appeared in the examination conducted by the respondent on 09.08.2009. After succeeding in the written examination, the petitioner participated in the interview conducted at Secunderabad (Andhra Pradesh) on 11.01.2010. The respondent, vide its letter dated 05.11.2012, supplied the final merit list of the recruitment to the post of PGT (Computer Science) in response to the application dated 30.09.2012 under the RTI Act-2005, wherein the petitioner's name appeared at SL No. 350. Upon the perusal of the aforementioned merit list, it was evident that the petitioner secured 30/60 in Paper-I, 29/40 in Paper-II and 42/80 in Paper-III, and only 08/20 in the Open Interview, totalling 109/200 in the General Category. Consequently, the petitioner was declared unsuccessful, whereas the last successful candidate in the general category obtained 116.5 marks.

3. Being aggrieved by the aforesaid marking in Paper-III, the petitioner sought information about the Model Answer of Paper-III from the respondent vide letter dated 13.02.2013. However, the respondent did not supply any such information and instead provided vide their letter dated 14.03.2013 informed him that "*No such record is in possession of the Samiti*" because the examination was conducted by an outside agency. It is in these circumstances that the petitioner filed O.A. 1047/2016 before the learned Tribunal.

4. Learned counsel for the petitioner submits that the only grievance of the petitioner is that even though he has been awarded collective marks in the five questions, i.e. question nos.1, 4, 5, 6 and 7 attempted by him, he has not been awarded separate marks for each part of those questions. He, therefore, prays that the impugned order be set aside and the respondent be directed to carry out the said exercise.



5. Even though this argument of the learned counsel for the petitioner appears to be attractive on the first blush, however, upon examining the marking scheme adopted by the respondent, which is a part of the answer-sheet itself, it is evident that the respondent has from the very beginning awarded composite marks for each question. For the sake of clarity, the relevant extract of the answer-book is reproduced hereinbelow:-

Answer Book (24 Pages), Serial No.: 109 N^o. 004760

To be filled in by the candidate

Class Examination: PART-C (Computer Science - 2009) Date: 09/08/2009

Roll No. 1626107388 Post No. ONE SIX TWO ONE ZERO SEVEN THREE EIGHT FIVE

Subject: (PAPER-III) Computer Science Paper/Option: PAPER III

Medium: English

Certified that the particulars have been checked and found correct

Signature of the Invigilator:

INSTRUCTIONS FOR THE CANDIDATES

The candidates are advised to read the following instructions carefully and comply with the same strictly:

- The answer in every question shall be attempted in LEGIBLE handwriting failing which the candidate shall be awarded Zero mark.
- The candidate is required to complete his/her answers in this answer-book only. No separate Additional Supplementary sheet will be provided.
- Write on both sides of the answer book except the reverse of the title page.
- Every candidate should count the number of pages in the answer book. After 15 minutes of the start of Examination, the answer-book shall not be replaced due to shortage of pages or for any other reason.
- Do not write your name or make any identification mark or appeal to the examiner or write your Roll No. at any place in the Answer Book except on the title page at the prescribed space, failing which it will lead to disqualification of the candidate by treating it as an Unfair Means Case (UMC).
- A candidate having in his/her possession books, paper or notes or incriminating material of any other kind shall be disqualified.
- No answer book or paper of any kind is to be removed from the Examination Room except the question papers. Otherwise the candidate shall be disqualified by treating it as an Unfair Means Case (UMC).
- No page is to be torn out/removed from the Answer Book. This will lead to disqualification of the candidate.
- The Answer Book must be delivered to the Invigilator on duty even if no question has been attempted by the candidate.
- Rough work, if any, must be done inside the answer-book only; the same be cancelled later.
- After completing the answers, the candidate must Cross Mark (X) all the pages left blank inside the answer-book in his/her own hand.

Q. No.	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	Total
					06	07	10	9					72

Marks in words: Seventy Two

Assistant Commissioner
Navodaya Vidyalaya School
P. O. D. Govt. of India
Chandigarh

Signature of Examiner:

Number: 15-16

6. A perusal of the aforesaid reveals that the respondent had even before the commencement of the examination decided that for each question, marks will be awarded compositely and not separately for each of the sub-part(s) of



the question. If that be so, we fail to appreciate as to how the Court can interfere with the marking scheme adopted by the respondent, especially, since it is evident that the said scheme has been applied uniformly to all other candidates.

7. We are of the view, that even if separate marks had been allocated for the sub part(s) (a) and (b) of the question, once the scheme of marking indicated that marks were required to be awarded compositely as per the table extracted hereinabove, the respondent cannot at this belated stage be directed to award separate marks to the petitioner in each part of the question.

8. Even otherwise, the respondent was the best judge for deciding the procedure to be followed and the manner of giving marks. It is trite law that neither the procedure to be followed nor the awarding of marks is within the domain of the Court. There is absolutely no reason for this Court to interfere with such decisions/procedure adopted by the respondent, much less by way of the present writ petition under Articles 226 and 227 of the Constitution of India.

9. We, therefore, find no reason to interfere with the impugned order. The writ petition, along with pending applications, being meritless is, accordingly, dismissed.

(REKHA PALLI)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 16, 2024/sr