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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: 01.03.2024*

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W.P.(C) 10193/2019

GOVT. OF NCT OF DELHI & ORS

..... Petitioners

Through: Mr. Nitish Kumar Singh for Ms.
Avnish Ahlawat, Standing Counsel
GNCTD.

versus

JITENDER KAUSHIK

..... Respondent

Through: Ms. Mamta Sharma, Advocate.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)****CM APPL. 13042/2024 -E-hearing (Res.).**

1. This is an application for early hearing preferred by the respondent.
2. The application is, for the reasons stated therein, allowed, and the writ petition is taken up for consideration today itself.
3. The application stands disposed of.

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4. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 13.05.2019 passed by the learned Central Administrative Tribunal (the learned Tribunal) in O.A.892/2019. Vide the impugned order, the learned Tribunal has



allowed the OA preferred by the respondent by issuing the following directions.

“6. We are aware of the limitations of the Tribunal in the context of verification of correctness of answers to the question in the competitive test. However, as regards question no.56, we expressed our reservations about it, in OA No.580/2019. In that examination, it occurred as question no.44. Direction was issued to refer the issue to the subject experts. Whatever happened to question no.44 in that examination, must happen to question no. 56 in the present examination also.

7. Therefore, we dispose of this OA directing that the respondents shall take into account, the opinion expressed by the experts with reference to question, similar to question no.56 in the test conducted for the post of TGT (Sanskrit). If the answer in the final key for the said question is found by the experts as correct, no further steps needs to be taken; and if on the other hand, any different suggestion is made, the same shall be taken into account, for correction of anomalies, if any. There shall be no order as to costs.”

5. In support of the petition, Mr. N.K. Singh, learned counsel for the petitioners submits that impugned order is liable to be set aside as the learned Tribunal has failed to appreciate that the respondent had approached the learned Tribunal after the declaration of the result and therefore the petitioners were justified in refusing to re-examine the answer key at his request. After some arguments, he does not deny that the answer to question no. 56 as provided in the answer key was erroneous as also the fact that the very same question was the subject matter of consideration in O.A 580/2019 and upon reference to the



Expert Committee, the answer key to the same was found to be incorrect.

6. On the other hand, Ms. Mamta Sharma, learned counsel for the respondent supports the impugned order and contends that that once the views of the Expert Committee were available with the petitioners and they became aware after the order passed in O.A 580/2019 that the answer to question no. 56 as published in the answer key was incorrect, they ought to have taken corrective steps on their own before declaring the final result. She, therefore, contends that the petitioner itself being responsible for the wrong answer key of question no. 56 having been published, the respondent cannot be made to suffer especially when he had approached the petitioner much before the final result was declared. She, therefore, prays that the writ petition be dismissed.

7. Having considered the submissions of the learned counsel for the parties and perused the record, we are inclined to accept the respondent's plea that once the petitioners became aware about the answer to question no. 56 given in the answer key being incorrect, they ought to have taken appropriate corrective steps on their own. In our view, once the Expert Committee appointed by the petitioner in O.A. 580/2019, has expressed a categoric opinion that the answer key to the very same question, though with regard to a different examination for a different post, was incorrect and the answer given by the respondent is correct, petitioners cannot refuse to grant marks to the respondent for the said question especially when she had approached the petitioners much before the final result was declared.



Furthermore, we have also perused the question no. 56, the answer key where to has been challenged by the respondent, and find that the answer to this purely mathematical question, as urged by the respondent is 7/75, i.e., Option 'C'.

8. In the light of the aforesaid, we find no reason to interfere with the impugned order which directs the petitioners to correct the anomalies after taking into account the opinion of the Expert Committee, which as noted hereinabove, clearly opined that the answer key to question No. 56 was incorrect. As we find that the answer, i.e., Option 'C', given by the respondent was correct, we dismiss the writ petition by directing the petitioners to grant one mark to the respondent as also to all other similarly placed candidates who had marked Option C, i.e., 7/75 as their answer to Question no. 56. In case, after awarding one extra mark to the respondent and other similarly placed candidates, the total marks obtained by the respondent or by any other similarly placed candidate are found to be more than the marks obtained by the last candidate in the merit list, the respondent and such other similarly placed candidates will forthwith be appointed to the post of TGT (Sanskrit) by adjusting them against the presently available vacancies. It is, however, made clear that in case the respondent or any other similarly placed candidate is found fit to be appointed to the aforesaid post, they will be entitled to receive all notional benefits w.e.f, the date, the last selected candidate was appointed. They will, however, not be entitled to any back wages for the period prior to the date of actual appointment. The exercise in terms of this order be completed within



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eight weeks from today.

9. The next date i.e. 25.07.2024 stands cancelled.
10. The writ petition is disposed of in the aforesaid terms.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 1, 2024/ib