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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9752/2024**

MOHD HANZALA

.....Petitioner

Through: Mr.Kartik Venu and Ms.Ariana
D.Ahluwalia, Advs.

versus

**UNIVERSITY OF DELHI THROUGH REGISTRAR AND
OTHERS**

.....Respondents

Through: Mr.Mohinder J.S.Rupal and
Mr.Hardik Rupal, Advs for R-1.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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03.10.2024

1. Heard learned counsel appearing on behalf of the parties.
2. The petitioner seeks for directions against respondent nos.2 to 4 to properly evaluate the portion of the petitioner's answer script that was allegedly overlooked and not marked. His grievance specifically relates to Answer no. 6(a) of the answer script to Question Paper bearing examination code LB-302 (i.e., Code of Civil Procedure and Limitation).
3. The petitioner has also prayed for various other reliefs.
4. The Court *vide* order dated 09.09.2024 directed the respondents to keep the answer script available for the perusal of the Court.
5. Today, when the matter is called out, learned counsel appearing on behalf of the respondent-University has presented the copy of the original answer script. The Court has perused the same.



6. The first page of the answer script pertains to the details of the marks assigned against each question by the examiner. The award of marks indicates as under:-

Question Number	Marks Awarded
1	10
2	9
3	8
6	7
8	4

1. The petitioner further contends that if the answer script is examined, the same would indicate that against answer 6(a) in part-D, there are no marks assigned despite the examiner has marked tick at three places. He, therefore, submits that when tick mark has been made by the examiner, the same would require assignment of appropriate marks. He asserts that it is a case of overlooking the answer sheet on behalf of the examiner as according to him, when the examiner has incorrectly overlooked to assign the marks against the particular question, the petitioner would be entitled for appropriate marks. Therefore, according to the petitioner, the matter requires to be re-examined by the respondent-University.

9. Learned counsel appearing on behalf of the petitioner has also placed reliance on a decision of this Court in the case of *Nasheta Zaidi v. CBSE*¹. While placing reliance on paragraph no.17, he submits that on account of failure on the part of the examiner, the candidate should not suffer.

¹ 2024 SCC OnLine Del 129.



Paragraph no.17 of the aforesaid decision reads as under:-

"17. In my considered view, while the failure to award marks in the margin against a particular answer even after entering a tick <> mark may be a lapse on the part of the examiner in complying strictly with the instructions issued by the CBSE, the student cannot be made to suffer for that reason. Moreover, the CBSE Guidelines do not stipulate that, in the event of this happening, the student would not be awarded any marks for the answer given by him. So long as the examiner found the answer provided by the student to be correct, there can be no question at all of the student being awarded no marks against that answer. Else, it would do complete disservice to the efforts of the student, resulting in manifest injustice which the Court cannot countenance. To reiterate, the consequence of the lapse of the examiner, if any, cannot be visited on the student."

10. On the other hand, learned counsel appearing on behalf of respondent-University places reliance on a decision of the Supreme Court in the case of **CBSE v. Khushboo Shrivastava**², and he submits that in absence of there being any provisions for evaluation, the same cannot be permitted.

12. I have considered the submissions made by learned counsel for the parties and perused the record.

13. A perusal of the award of marks and the answer script clearly indicates that against each question, appropriate marks have been assigned by the examiner. It is not the case herein that the examiner has not marked the entire question independently, or has failed to assign any marks. It is seen that question no.6 is in two parts. For the overall question, the examiner has duly awarded 7 marks in total. Upon perusing the answer script, the Court is of the considered opinion that the examiner has undertaken appropriate exercise in marking the answer sheet. In the instant case, it appears that the examiner was not convinced with a portion of the answer of question number 6(a) and therefore, the separate marking against question



number 6 (a) has not been made. Therefore, it is not a case that the tick has been marked, but corresponding marks have not been assigned. Thus, the established legal position as has been laid down in the case of *Nasheta Zaidi (supra)* will not be of any assistance to the petitioner.

15. Accordingly, the instant writ petition stands dismissed.

PURUSHAINDR KUMAR KAURAV, J

OCTOBER 3, 2024/MJ

² (2014) 14 SCC 523.