



2026:DHC:1760-DB



\$~93

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 26.02.2026***+ **W.P.(C) 2682/2026 & CM APPL. 13036/2026****THE COMMISSIONER OF POLICE AND ANRPetitioners****Through: Ms. Arti Bansal CGSC-UIO,
Ms. Shruti Goel Adv.****versus****AMIT GULIA AND ORSRespondents****Through: Mr Samarth Luthra, Adv. for R-
1.****CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****AMIT MAHAJAN, J.****CM APPL. 13037/2026 [*exemption from filing of certified copy of the impugned order and true typed copies of dim / illegible hand written Annexures*]**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 2682/2026 & CM APPL. 13036/2026

1. The present petition has been filed assailing the order dated 30.10.2025 (hereafter '**impugned order**'), passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi, (hereafter '**Tribunal**') in O.A. No. 334/2023, whereby the O.A. filed by the Respondent/Sh. Amit Gulia was allowed.



2. The quintessential facets governing the present dispute are that the Respondent was appointed as Constable (Executive) in Delhi Police on 11.06.2007.
3. The examination for promotion to the post of Head Constable from Constable was conducted by the Department in the year 2021, in accordance with Rule 12 of the Delhi Police (promotion & Confirmation) (Amendment) Rules 2015 and (Amendment) Rules 2018, and the written examination was held on 26.12.2021.
4. The Question Paper Booklet consisted of 4 versions/Sets A, B, C and D, which had the same set of 100 MCQs but in a different order and each correct answer carried 01 mark.
5. The Answer Key was published on 29.12.2021 and a T.P. Message was also issued to inform all the candidates to verify the answers uploaded on Intra D.P. System and opportunity was also granted to the candidates to challenge any question/answer keys before the DCP/Headquarters-IV, Delhi, by 30.12.2021.
6. The Respondent, who had admittedly appeared in the above exam, filed his representation dated 30.12.2021, objecting to certain questions and their respective answers. Almost 270 candidates, including the Respondent, had filed their applications *vide* which they challenged about 21 questions. All applications and questions were examined by the Paper Setter, and since only 5 questions were accepted as wrongly printed/scripted, total 5 marks (01 mark for 1 question) were given to all candidates.



7. However, the objection to **Question No. 24, 34, and 58 (from Set D)** by the Respondent was rejected on 17.02.2022. The relevant details of the questions and the comments are reproduced as under: -

Questions	Answer Key	Answer of the Candidate/Respondent	Comments of the Paper Setter
Q No. 24 – What is the maximum age of victim under the POCSO Act? (A) 16 (B) 17 (C) 18 (D) Below 18	D	A	The question is related to POCSO Act and not POCSO Amendment Act 2019. The Answer D is correct
Q No. 34 – Who conducts examination-in-chief of a witness? (A) Magistrate (B) PP (C) IO (D) ACP	A	B	Trial of criminal case is done in the Court. It is the Magistrate who records examination of the witness. Therefore, Answer A is correct
Q No. 58 – Which PPR Register is related to complaint regarding a lost article? (A) FIR (B) NCR (C) Daily Diary (D) PCR Call Register	B	C	Loss of article is not a cognizable offence. Therefore, it is recorded as Non-Cognizable offence Report therefore, Answer B is correct.

8. The final promotion list was released *vide* Hdqrs. Notification endst. No.6266-6360/Promotion Cell (A List) Desk-III/PHQ dated 25.03.2022. The Respondent was not promoted since he had secured total 111 marks i.e. 10 marks for Length of Service, 10 marks for Punishment free record and 91 marks in the Written Test, while the cut-off was 112 total marks for General Category (UR).



9. Aggrieved, the Respondent submitted several representations/ grievance complaints/RTIs within the period of May 2022 till November 2022, and was eventually constrained to approach the learned Tribunal by way of the of the above O.A. No. 334/2023, seeking the following reliefs: -

- “ a) Quash and set aside the impugned T.P. messages dated 17.02.2022 (Annexure A/1) final result/promotion list dated 25.03.2022 (Annexure A/2) alongwith impugned orders dated 28.06.2022, 08.08.2022 and 20.12.2022 (Annexure A/3, A/4 and A/5) respectively.*
- b) direct the respondents to redraw and revise the results preparing a pure and correct answer key as stated in the preceeding paras and*
- c) further consider and appoint the applicant by way of promotion to the post of Head Constable (Exe.).*
- d) award all consequential benefits.*
- e) Pass any other order/direction which this Hon'ble Tribunal deems fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.”*

10. The learned Tribunal, after duly considering the questions and examining the relevant answer keys, found the answer keys of the above questions to be incorrect or ambiguous and hence, directed the Petitioners to revise the result of the Respondent specifically with respect to the answers of **Question 24 and 34 of SET D**. The relevant observations are reproduced as under: -

*22. Applicant has been denied marks for answers to various questions which has been challenged by him in the present OA. Out of all the questions challenged, it is evident that the applicant was wrongly denied marks for Questions No. 24 and 34 of Set D. **In Question No. 34, as per Section 137 of the Indian***



Evidence Act, the examination-in-chief is conducted by the party who calls the witness, and in the context of prosecution witnesses, this is the Public Prosecutor (PP). Therefore, the applicant's answer— Option (B)—is the most appropriate and correct choice, not Option (A) – Magistrate, as accepted by the respondents.

23. Similarly, in Question No. 24, while the department considered —Below 18 as the correct answer, the applicant chose Option (A) – 16, which aligns with Section 4(2) of the POCSO (Amendment) Act that prescribes enhanced punishment specifically for victims below 16 years. The ambiguity in the question should reasonably entitle the applicant to the benefit of doubt. Accordingly, the applicant deserves to be awarded one mark each for Questions No. 24 and 34. With the grant of these two additional marks, his total score rises from 111 to 113, thereby crossing the cut-off mark of 112 for the General category as it stands today. As a result, the applicant becomes eligible for promotion to the post of Head Constable (Executive).

24. Thus, the impugned orders rejecting his claim are liable to be set aside to the extent they deny him rightful credit.

Xxx xxx xxx

26. Hon 'ble Apex Court in the aforesaid decision has thus proceeded to grant relief to the candidates. Similarly, the present applicant also deserves relief. The respondents are thus directed to revise the result, concerning the answers to the Q24 and Q34 of Set D. Upon such revision, if the applicant makes the cut off he shall be considered for promotion with all consequential benefits. Respondents shall issue appropriate orders within a period of eight weeks from the date of receipt of a certified copy of this order.

(Emphasis supplied)



11. The Petitioner has now approached this Court challenging the above order.

12. The learned Counsel for the Petitioner has essentially submitted that the learned Tribunal has erred in re-evaluating the questions and the answer keys and has exceeded the scope of judicial review. The scope of interference is limited to the process of decision making and not the decision of the Paper Setter. Once the Paper Setter i.e. the competent authority/domain expert, had already examined the questions, the learned Tribunal could not have substituted its own opinion in place of that of the Paper Setter, and assumed the role of expert in an academic matter.

13. It is further submitted that the directions passed in 2025 to revise a promotion process concluded in March 2022 unsettles accrued third-party rights, seniority, and administrative finality.

14. *Per contra*, the learned Counsel for the Respondent has submitted that no interreference is warranted in the impugned order, as the learned Tribunal has rightly evaluated all the questions and their relevant answer keys and also the opinion of the Paper Setter, in accordance with the applicable law and has rightly directed 2 additional marks to be granted to the Respondent for the Question 24 and 34.

15. Submissions heard and the material placed on record perused.

16. This Court is mindful of the settled position that courts normally should not re-evaluate answer keys as they are presumed to be correct and cannot be proved to be wrong by an inferential process or by a process of rationalization. However, in case of *Kanpur*



University and Ors. v. Samir Gupta and Ors., AIR 1983 SC 1230, the Hon'ble Apex Court has categorically observed that interference with the answer keys may be permissible if the same is proved to be wrong on the face of it and are clearly demonstrated to be so incorrect, that no reasonable body of men well-versed in the particular subject would regard it as correct. The relevant extract is reproduced as under: -

*"16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. **We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it would not be held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well versed in the particular subject would regard as correct.** The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.*

*17. Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for admission to the Medical Colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text-books. Those text books support the case of the students fully. **If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalize the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong.**"*

(Emphasis Supplied)

17. In *Siddhi Sandeep Ladda v. Consortium of National Law Universities*, 2025 SCC OnLine SC 1144, wherein the certain



questions of the CLAT 2025 were challenged by the candidates, the Hon'ble Apex Court observed that in academic matters, though the Courts are generally reluctant to interfere, inasmuch as they do not possess the requisite expertise for the same, however, when the academicians themselves act in a manner that adversely affects the career aspirations of lakhs of students, the Court is left with no alternative but to interfere. A perusal of the observations regarding the impugned Question No. 56 therein, demonstrates that the Hon'ble Apex Court though agreed with the view taken by the Respondent No. 1 therein as well as the High Court that Option (d) was the correct answer for Question No. 56, but upon undertaking further evaluation of the options, also held that the Option (c) should also be treated as the correct answer. Thus, since there were 2 options correct for 1 question, it was directed that all candidates who had marked option (c) or (d), should be given the marks for the question: -

“ 9. From the impugned judgment and final order of the Division Bench of the High Court, it is clear that several questions and/or the answers thereto were found to be not suitable. The High Court had, therefore, passed an order with regard to various questions. However, in the present appeals, we are only concerned with six questions, i.e., Question Nos. 56, 77, 78, 88, 115 and 116. We shall deal with each question individually.

A. Question No. 56

10. The material provided alongwith Question No. 56 is as follows:

“X. The 42nd Constitutional Amendment Act 1976 introduced the concept of environmental protection in an explicit manner into the Constitution though introduction of Article 48A and Article 51A(g). In many judgments, the Supreme Court ruled that both



the State and its residents have a fundamental duty to preserve and protect their natural resources. The recent judgment obliquely makes way for an enforceable right, and a potential obligation on the state unless the same is overturned by an Act of Parliament.

India is signatory of various international environmental conservation treaties under which India has the binding commitment to reduce carbon emission. During the COP 21, India signed Paris Agreement along with 196 countries, under which universally binding agreement was made to limit greenhouse gas emission to levels that would prevent global temperatures from increasing to more than 1.5 degree Celsius before the industrial revolution. India has committed to generating 50% of its energy through renewable resources and will generate 500 GW of energy from non-fossil fuels by 2030, reducing the carbon emission by 1 billion ton. Additionally, India has committed to achieve net zero carbon emission target by 2070.

Supreme Court's March 21, 2024 verdict builds on the bulwark of jurisprudence in place since 1986, and, through various other judgments, the Supreme Court has recognized the right to clean environment along with right to clean air, water and soil free from pollution which is absolutely necessary for the enjoyment of life. Any disturbance with these basic elements of environment would amount to violation of Article 21. It also establishes duty of the state to maintain ecological balance and hygienic environment. Although right to clear environment has existed, by recognizing the right against climate change it shall compel the states to prioritize environmental protection and sustainable development.”

II. Question No. 56 and the answer options provided thereunder are as follows:

“56. As per the aforementioned passage and decision of the Supreme Court:

a. The fundamental duty to preserve and protect natural resources is upon the State only.



b. Citizens alone have the fundamental duty to preserve and protect natural resources.

c. Both the state and citizens have the duty to preserve and protect natural resources.

d. State has the duty to maintain ecological balance and citizens have the right against climate change.”

12. It can thus be seen that the answer option (a) that the fundamental duty to preserve and protect the natural resources is upon the State only, is totally wrong which is found to be so even on a perusal of the material provided.

13. Similarly, the answer option (b) that the citizens alone have the fundamental duty to preserve and protect natural resources, is equally wrong.

14. According to Respondent No. 1, the answer option (d) that the State has the duty to maintain ecological balance and citizens have the right against climate change, is the correct option.

15. No doubt that if a candidate on a reading of the material provided and by applying logic and reason selects the answer option (d), it would be a correct answer.

16. However, before we reach a conclusion it will also be appropriate to refer to the answer option (c) which states that both the State and the Citizens have the duty to preserve natural resources.

17. Perusal of the first paragraph of the material provided by Respondent No. 1 to answer Question No. 56 would reveal that it is stated in second sentence itself that in many judgments the Supreme Court ruled that both the State and its residents have a fundamental duty to preserve and protect their natural resources.

18. Shri Raj Shekhar Rao, learned Senior Counsel appearing for Respondent No. 1, has attempted to justify the stand of Respondent No. 1 by submitting that the phrase used in the second sentence is that “it is the State and its residents” who have a Fundamental Duty to protect and preserve their natural resources. According to Respondent No. 1,



therefore, the use of the word “citizens” as provided in answer option (c) is not appropriate and the only correct answer is option (d).

19. We are amazed that such a stand has been taken by Respondent No. 1, which is expected to be led by scholars and experts in the field of legal education.

20. This Court, time and again, has emphasized that it is the duty of both the State and its citizens to protect and preserve the natural resources. We, therefore, fail to understand as to why a candidate who has marked answer option (c) should not be awarded the marks for this question.

21. Perusal of paragraph 20 of the impugned judgment and final order passed by the Division Bench of the High Court would show that the High Court has come to the considered conclusion that option (d) is the only correct answer.

22. We, therefore, set aside the direction of the High Court qua Question No. 56 and further direct the Respondent No. 1 to award positive marks to all the candidates who selected either answer option (c) or (d) and only those candidates who selected either answer option (a) or (b) should be given the negative marks in Question No. 56.”

(Emphasis supplied)

18. Thus, it emerges that there exists a very narrow window of interference under judicial review, only in such rare and exceptional circumstances, where the Court is satisfied that the disputed answers are palpable and demonstrably erroneous. Further, the onus is on the candidate to demonstrate that the answer key was incorrect and the same has to be done without adopting any inferential process or reasoning.

19. In the instant case, firstly, the questions admittedly pertain to the field and subject of “Law” or “Legal Studies” and not any other technical subject for which the learned Members of the Tribunal could



have been stated to not possess expertise or wisdom in. It would be improper to suggest that the learned Members of the Tribunals are not the subject experts or domain experts with respect to “*Law*” or “*Legal Studies*”.

20. As regards, Question No. 34, which pertains to “*examination-in-chief is conducted by whom*”, the following option were given: - (A) Magistrate; (B) PP; (C) IO and (D) ACP. The learned Tribunal has rightly observed that as per Section 137 of the Indian Evidence Act, 1872, the examination-in-chief is *conducted* by the party who calls him and in the context of the prosecution witness it would be the Public Prosecutor (PP). Hence, the Option (B) – PP, marked by the Respondent was the most appropriate and the correct option. The Answer Key – Option A and the comments of the Paper Setter, that “*Option (A) – Magistrate*” is the correct option as the same the examination-in-chief is *recorded* before the Magistrate, is on the face of it incorrect and palpably erroneous. A plain reading of the question reflects that the same does not pertain to *who records* the examination in chief, but rather pertains to *who conducts* the same and the process of examination-in-chief is only *conducted* in the presence of the Presiding Judicial Officer, who may be the Magistrate or a Sessions Judge, as the case may be. Hence, the benefit of 1 mark for attempting the correct answer was rightly awarded to the Respondent.

21. Similarly, with respect to Question No. 24, which pertains to the “*maximum age of a victim under the POCSO Act*”, the learned Tribunal has rightly observed that the “*Option (A) – 16*” can also be the correct answer as per Section 4 (2) of the POCSO Amendment Act



which prescribed enhanced punishment for victims below 16 years of age. Evidently, the learned Tribunal has neither substituted nor disagreed with the view of the Paper Setter that “*Option (D) – Below 18 years*” may also be the correct answer for the same question. It has merely extended the benefit of such ambiguity and possibility of multiple answers being correct to the Respondent herein.

22. Hence, the learned Tribunal has rightly directed that the benefit of the above error in the questions/answer keys be granted to the Respondent and 2 marks (1 mark for Question No. 24 and 1 mark for Question No. 34) be awarded to him and his result be revised accordingly. It was further rightly directed in the facts and circumstances of the present case, that if the Respondent meets the cut-off, he should be considered for promotion along with consequential benefits.

23. The same is a plausible view and this court finds no reason to interfere with the same.

24. In view of the above, the present petition is hereby dismissed along with pending application(s), if any.

AMIT MAHAJAN, J

ANIL KSHETARPAL, J

FEBRUARY 26, 2026

“SK”