

# **Aniruddh Narayan Shukla And 118 Others vs State Of U.P. And 3 Others on 30 October, 2018**

**Equivalent citations: AIRONLINE 2018 ALL 5318**

**Author: Ashwani Kumar Mishra**

**Bench: Ashwani Kumar Mishra**

HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No. - 58

Case :- WRIT - A No. - 18235 of 2018

Petitioner :- Aniruddh Narayan Shukla And 118 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shivendu Ojha, Sri. Radha Kant Ojha, Sr. Advocate

Counsel for Respondent :- C.S.C., Ashok Kumar Yadav

Hon'ble Ashwani Kumar Mishra, J.

This writ petition, along with the connected writ petitions, raises grievance of the applicants/candidates/petitioners, who have applied for appointment to the to the post of Assistant Teacher pursuant to the Assistant Teachers Recruitment Examination, 2018. A total number of 68,500 appointments were required to be made pursuant to the process initiated by the Additional Chief Secretary of the State of Uttar Pradesh on 09.01.2018. Guiding principles have been laid down for conduct of examination itself. Vide Government Order dated 07.05.2018, a schedule has been published for holding of examination, according to which advertisement was to be published on 08.05.2018. Dates were specified for making online registration, etc. and 27.05.2018 was the date

fixed for holding of examination. The examination consisted of one paper of 150 marks and the duration of examination was 3 hours. The answer key, thereafter, was published on 05.06.2018. Objections, against proposed answers, were entertained till 09.06.2018, and the report of the expert committee was to submit its recommendation on 15.06.2018. Modified/corrected answer key was, then, to be published on 18.06.2018 and the result was to be declared on 30.07.2018. It is not in dispute that result, ultimately, was declared on 13.08.2018.

Petitioners, in this bunch of petitions, have raised various grievances relating to conduct of examination. After hearing learned counsel for the parties, this Court, on 11.10.2018, had crystallized the issues raised by the petitioners in the following categories:-

- (i) some of the petitioners have not been awarded marks against their correct answers because their answers have not been evaluated at all;
- (ii) no marks have been awarded against certain other correct answers on account of the fact that there is some cutting noted in the scanned copies, though there is no such cutting available on the carbon copies;
- (iii) the key answers to some of the questions are stated to be clearly wrong as per existing NCERT books and other expert material;
- (iv) against some questions, marks have not been awarded for correct answers on the pretext that there exists some cutting before correct answers have been found recorded though the answers are otherwise legible;
- (v) no marks have been awarded to some of the correct answers if the unit such as 'Rupees' or 'Kilometre' etc. has not been written or minor grammatical errors have been made while the answer is materially and substantially correct;
- (vi) gross inconsistencies exist in awarding marks in cases of overwriting inasmuch as for some answers to some students full marks have been awarded despite overwriting though no marks have been awarded to others for similar mistakes;
- (vii) for some questions, multiple answers (more than one) have been shown as correct answers in the model/key answer sheet. However, marks have been awarded only for one or the other of the multiple correct answers and not for all;
- (viii) some of the petitioners claim that they have been declared not qualified though the marks that have been awarded to them as per the scanned copies are clearly above the qualifying marks;

Pursuant to the order passed on the previous occasion, Shri Anil Bhushan Chaturvedi, Secretary of the Examination Regulatory Authority, is present along with records and has assisted the Court. He has filed his personal affidavit and records, including the minutes of the committee which had

deliberated upon the objections filed by the petitioners to the model answers, have also been produced.

It may also be noticed that the issues, relating to various grievances raised by the candidates, got examined by the State Government at its own level and a Government Order dated 05.10.2018 has been issued laying down procedure for entertaining the objections raised by the applicants/candidates against the conduct of examination and also, the manner in which such grievances are to be scrutinized/considered. For the facility of reference, the Government Order dated 05.10.2018 is extracted hereinafter in its entirety:-

Pmi;qZDRk fo"k; ds lEcU/k esa eq>s ;g dgus dk funs'k gqvk gS fd csfld f'k{kk foHkxx] moizo }kjk 68500 inkSa ij lgk;d v/;kidksa dh lEiUu gqbZ HkrhZ ijh{kk&2018 esa gqbZ vfu;ferrkvksa dh tkap gsrq Jh lat; vkjo HkwlsM~Mh dh v/;{krk esa xBr rhu lnL;h; mPpLrjh; tkap lfefr dh tkap vk[k; ,oa lfpo] ijh{kk fu;ked izkf/kdkjh }kjk leLr 1]07]865 mRrj iqfLrdkvksa dh djkh x;h LdzwVuh ds vk/kkj ij 'kklu }kjk fu.kZ; fy; x;s gS] ftlesa rRdkfyd izHkko ls dk;Zokgh fd;s tkus dh vis{kk dh x;h gS%& ¼[k½ jkT; foKku f'k{kk laLFkku ds 07 vf/kdkfj;ksa ftUgsa HkrhZ ijh{kk dk ewY;kadu lqpk: :i ls lapkfyr djus dh ftEesnkjh lkSih x;h Fkh] ds }kjk vius dk;Z esa u dsoy ykijokgh cjrh x;h] mRrj iqfLrdkvksa dk muds }kjk Ik;Zos{k.k ugha fd;k x;k ftds dkj.k mRrj iqfLrdkvksa ds ewY;kadu esa dfri; dfe;ka gqbZ ,oa ifj.kke izHkkfor gqvka vr% bu lkrksa ds fo;} f'kfFky Ik;Zos{k.k ,oa viuk dk;Z fu;eksa ds vkyksd esa mRrjnkf;Ro ¼x½ lgk;d v/;kld HkrhZ ijh{kk&2018 dk ijh{kk ifj.kke rS;kj djus okyh ,tsUlh eSustesUV daV<sup>a</sup>ksy fllVe izkbosV fyfo] 29 fo/kku lHkk ekXkZ] y[kum }kjk ijh{kk ifj.kke ?kksf"kr djus esa vlko/kkuh cjrh x;h rFkk ijh{kk ifj.kke esa folaxfr;k rFkk xEHkhj =qfV;ka Hkh dh x;hA ,tsUlh dh ykijokgh ls =qfV;ka gksus ds dkj.k ?kksf"kr ijh{kk ifj.kke esa Hkh =qfV;k gqbZ] ftds fy; bu ,tsUlh dks rRdkfyd izHkko ls CySdfyLV djus dh k;Zokgh ds lkFk&lkFk lHkh foHkxxksa dks bl vk'k; dh lwpuk nh tk, fd HkfoK"; esa og bl ,tsUlh ls dk;Z u djksa blds vfrfjDr ;fn ,tsUlh dks dksbZ Hkqxrku fd;k tkuk vo'ks" k gS rks og Hkqxrku u fd;k tk; ,oa vuqcU/k dh 'krksZa ds vuq:i ,tsUlh ds fo;} vU; n.MkRed dk;Zokgh Hkh lqfuf'pr fd;s tkus dk fu.kZ; fy;k x;k gSA ¼?½ ikjnf'kZrk ds n`f"Vxr ;g fu.kZ; Hkh fy;k x;k gS fd dksbZ Hkh vH;kFkhZ ;fn viuh mRrj iqfLrdk dk iquewZY;kadu djuk pkgRk gS rks mls fu%'kqYd iquewZY;kadu dk volj iznku fd;k tk;A iqueZwY;kadu ds fy; fu%'kqYd vkosnu djus gsrq fnukad 11-10-2018 ls 20-10-2018 ds e?; vkWu&ykbv vkosnu izkIr djus dk fu.kZ; fy;k x;k gSA d`i;k bl lEcU/k esa ,uovkbZolho ds lkFk feydj vkosnu i= dk izk:i fMtkbu djrs gq, fnukad 11-10-2018 ls 20-10-2018 ds e/; vkWu&ykbv vkosnu izkIr djus dh O;oLFkk djsa rFkk mlls iwoZ lepkj i=ksa ds ek;/e ls foKkiu izdkf'kr djrs gq, bldk leqfpr izpkj&izlkj djksaA ¼p½ tkap lfefr dks izkIr dqy 725 f'kd;rkSa esa ls ek= 285 vH;kfFkZ;ksa dh f'kd;rsa gh ewY;kadu esa vfu;ferrk ls lEcU/kr FkhaA tkap lfefr }kjk mDr dqy 285 f'kd;rkSa ds xgurkiwoZd ijh{k.k ds ekn ;g lkk;k x;k fd dqy 110 vH;kfFkZ;ksa ds izdj.kksa esa ijh{kkQy esa dksbZ ifjorZu ugha ik;k x;k rFkk 17 izdj.k lgk;d v/;kid HkrhZ ijh{kk ls lEcU/kr ugha FksA bl izdkj dqy 285&¼110\$17½2¾4158 izdj.kksa esa Hkh 'kklu }kjk Lo;a iquewZY;kadu djkh, tkus dk fu.kZ; fy;k x;k gSA ¼N½ dqy 1]07]865 mRrj iqfLrdkvksa ds LdzwVuh esa dqy 343 izdj.kksa esa feyku

djus ij vUrj ik;k x;k] ftlesa ls 239 izdj.kksa esa ijh{kk ifj.kke vizHkkfor gS 'ks"k 51 izdj.k ,sls gSA ftuesa tks vH;FkhZ vHkh vuqRrh.kZ gS rFkk vugZ gSa os mRrh.kZ rFkk vgZ gks tkrs gS rFkk 53 izdj.k ,sls gSa] ftuesa tks vH;FkhZ vHkh mRrh.kZ rFkk vgZ gSa] os vugZ rFkk vuqRrh.kZ gks tkrs gSA 'kklu }kjk bu 53 mRrj iqfLrdkvksa dk Hkh iquewZY;kadu dj, tkus dk fu.kZ; fy;k x;k gS rFkk tks 51 vH;FkhZ vgZ gks x;s gSa mUgSa dkmalfax dh vuqefr nsrs gq, vfxze dk;Zokgh fd;s tkus dk fu.kZ; fy;k x;k gSA ¼t½ LdzwVuh esa ftu 343 izdj.kksa esa vUrj ik;k x;k gS mu 343 mRrj iqfLrdkvksa dk ewY;kadu djus okys ijh{kdksa dks dkj.k crkvksa uksfVl fuxZr djrs gq, muds fo;} n.MkRed dk;Zokgh fd;s tkus dk fu.kZ; Hkh fy;k x;k gSA vr,o d`i;k rn~uqlkj rRdky vxzrj vko';d dk;Zokgh djrs gq, d`r dk;Zokgh ls 'kklu dks Hkh voxr djkus dk d"V djsaAß Pursuant to the liberty extended by the State for raising objections by the applicants, more than 30,000 online objections are stated to have been received by the Examination Regulatory Authority. Certain objections have been raised by some of the petitioners, from this bunch, pursuant to the liberty granted by this Court in the previous orders passed in the present bunch of petitions. It is, therefore, clear that about 31,000 objections have been raised against the conduct of examination.

Court is further apprised that minimum marks have been fixed for different categories of applicants; in as much as, minimum marks, required to be secured by the candidates of General Category and OBC, are 45%; whereas, minimum marks, in respect of Scheduled Castes and Scheduled Tribes candidates, have been specified as 40%. On the basis of the evaluation of answers done by the respondents, a select list, containing 41,556 candidates, has already been issued. Approximately, 27,000 vacancies still remain available and the submission of the petitioners is that in case their answer sheets are correctly evaluated, the petitioners would also be entitled to be included in the select list.

Issues, that require consideration in this bunch of petitions, as have been noticed in the order dated 11.10.2018, have been examined at length by this Court after hearing the counsel for the respective parties and examining the original records, which have been produced. However, before proceeding to deal with the objections raised, issue-wise, certain observations would be required for better appreciation of petitioners' grievance. The examination conducted by the Authority is a written examination, which appears to be objective in nature; yet, the routine mode of holding such examination has not been followed. Ordinarily, in an objective type examination the examining authority specifies the question and then, possible answers are also given, so that candidates may specify one of the answers which, according to them, is correct. In such examination, Optical Mark Recognition (OMR) sheet is, generally, utilized so that all answers could be scanned by computerized machine and the process of evaluation is accomplished speedily. The instructions, which have been issued by the State Government for the purposes of holding of such examination, are on similar lines. In the OMR's sheet, overwriting and cutting is strictly prohibited; in as much as, the machine, which reads the answers, would not be able to find out correct answer in such circumstances. It is this genuine inability

which is the reason for specifying that any cutting or overwriting would be impermissible.

The pattern of examination is somewhat distinct here. The candidates were supplied question paper containing 150 questions. Short answers were required to be given by candidates, which could maximum be upto one line. The expression, therefore, of each candidate could vary. The answer was to be evaluated manually by the subject expert with the help of model answer key. The answer key contains multiple expressions in most of the answers and any of such answer has been treated as correct. However, as the expression used by the candidates could vary, much of the difficulty has arisen only because the examiner has treated only such answers to be correct which are given by the candidate using exact expression contained in the model answer key. Any change in expressing from what has been stated in the model answer key has been treated as wrong answer, even if the answer is, otherwise, correct.

Court has had the benefit of perusing the questions and also, the model answers published by the Regulatory Authority. A few questions, which have been highlighted by the petitioners during the course of submissions, therefore, are extracted hereinafter, along with answers, as illustration, to appreciate the grievances raised:-

Question No. 1 in Booklet Series 'A' reads as under:-

PQ.1. funsZ'k% uhps fn, x, vifBr x|ka'k dks /;kuiwoZd i euq"; ds fy, lk{kjrk dh lokZf/kd vko';drk gSA fuj{kj O;fDRk viuk fodkl ugha dj ldrkA iztkra= dh lQyrk ds fy, mlds ukxfjdksa dk lk{kj gksuk vko';d gSA lk{kjrk izrhd gS & Lora=rk ,oa fodkl dka ;fn bl vfHk;ku dh lQyrk vkSj foQyrk dk fu"i{k n`f"V ls fo'ys"k.k djsa rks gesa irk pyrk gS fd ;g vfHk;ku tu&tkx`fr ykus esa lQy jgk gSA bl vfHk;ku dks lQyrk iwoZd pykuk pkfg,A iz'u% uhps fn, x, vifBr i|ka'k ds fy, D;k vko';d gS \β"

Its answer, as per model answer key, reads thus:-

"lk{kj ukxfjd@ukxfjdksa dk lk{kj gksuk@lk{kjrk"

The evaluation is based strictly as per the answer key published and even the slightest change in expression has been treated to be a wrong answer. Since the answers were not specified, therefore, some variation in expressing the answer was inevitable as the language employed by each candidate could differ. In Question No. 1, as aforesaid, as against three possible answers, which have been mentioned in the answer key, if somebody has written "lk{kj" alone, then his answer has been marked as incorrect. Similarly, if somebody has mentioned "lk{kj gksuk" that also has been treated to be a wrong answer. The evaluation, therefore, appears to have been made by laying unnecessary emphasis on the language employed in the answer key without finding out the substance of the answer itself.

The answers were, otherwise, required to be given in one-line and therefore, in some of the cases, candidates, after having written the answer, changed/modified it by making some cutting/overwriting, etc. The authorities have completely ignored even the correct answer on the ground that there is some cutting in the answer.

Similarly, it would be apposite to refer to Question No. 83 of Booklet Series 'A', which reads as under:-

"Q 83. Who introduced the five steps system in preparation lesson planning?

IkkB ;kstuk fuekZ.k esa iapinh; iz.kkyh ds iz.ksrk dkSu Fks \ "

Its answer, as per the model answer key, mentions as "gjckVZ/Herbart". Some of the candidates mentioned the answer as "gjcVZ", which has been taken as wrong answer.

Question No. 48 of Booklet Series 'A' reads as under:-

"Q 48. The naked seeded plants are called.

UkXu chtks okys ikS/kksa dks dgk tkrk gSA"

Its answer, as per model answer key, reads thus:-

"ftEuksLieZ@vuko`rchth ikS/ks@vuko`rchth@uXuchth chth ikS/ks"

It transpires that if someone has mentioned the answer as "vuko`Rr chth ikS/ks", then his answer is treated to be a wrong answer.

Question No. 99 of the Booklet Series 'A' also needs to be taken note of and is reproduced hereinafter:-

"Q 99. What is the right order of feeble mindedness based on IQ?

cqf}yfC/k (IQ) ds vk/kkj ij eUncqf}rk ds Lrj dk lgh dze D;k gS \ "

Its answer, as per the model answer key, is mentioned as:-

"tM+cqf}]ew<+] ew[kZ@81&90] 80&89] 90 ls de lHkh IQ oxZ@ew[kZ] ew<+] tM+@eUncqf}] vYicqf}] tM+cqf}@Moron, Imbecile, Idiot"

Some of the candidates, who have mentioned answer as "80 - 90" or those who have mentioned less than 90, etc., have been treated as wrong answer.

Upon examination of the entire paper as well as the manner in which it has been evaluated by the authorities, this Court finds that evaluation has unnecessarily been made hyper-technical and in stead of evaluating the answer, based on substance of the answer, the form, in which it is expressed in model answer key, has been given precedence. Once the answers have been specified some departure in the manner of expressing answer would be inevitable from candidate to candidate and ought not to be made the basis for denying marks, if the answer, in substance, is correct. Since the authorities have already entertained the objections pursuant to the Government Order dated 05.10.2018 and an exercise for re-evaluation is proposed to be undertaken by them, it would be appropriate to clarify that object of holding of examination is to find out the best available talent in open market for being recruited as Assistant Teacher. The object is to test the knowledge of the applicant and therefore, the substance of answer needs to be evaluated and not the form in which it is expressed. As has already been clarified, mere change in the way of giving answer is inevitable, particularly, as the answer is to be given in one-line. The authorities would not be doing justice to the merits of a candidate while examining his candidature, if a right answer is held wrong only because it is not strictly as per the expression used in the model answer key. Such approach cannot be approved of.

It is, therefore, provided that while undertaking the exercise of re-evaluation, the authorities would not give undue weightage to exact wordings used in the model answer key and the examiner would be expected to evaluate answers in light of the model answer key by laying emphasis on the substance of answer and not restrict it to the exact expression used in the model answer key.

Cutting or over cutting can be a ground to deny consideration of answer in a given case, if it renders evaluation itself impermissible, as is the case in use of OMR sheet. However, where the evaluation is done manually by experts, as is the case here, the cutting or overwriting in answer ought not to be treated as a ground to treat the answer itself as wrong, if, in substance, what is written by the candidate is correct. This, otherwise, should not pose any difficulty for the authorities when the answer itself is to be evaluated manually by the subject experts.

Learned standing counsel has highlighted the instructions, which have been furnished by the State, according to which the cutting or overwriting renders the answer incorrect. The guidelines, issued in that regard by the State, appear to be the routine expression used in all examinations where OMR sheet is used for evaluating the answer. The guidelines issued by the State, therefore, cannot be construed in such a manner that the very object of evaluation of correct answer is frustrated. This is, particularly so as there would be no difficulty in evaluation of answer sheets in the kind of examination pattern which has been resorted to the present case. So long as the answer is right and legible, mere cutting ought not to be made a ground to hold a right answer as wrong.

In light of what has been observed above, it would now be appropriate to refer to the specific issues that have been crystallized by this Court earlier for consideration of petitioners' grievances.

(I) Some of the petitioners have not been awarded marks against their correct answers because their answers have not been evaluated at all:

It has been noticed that some of the petitioners have not been awarded marks against their correct answers because their answers have not been evaluated at all. This does not create any difficulty once the authorities have undertaken to allow re-evaluation of answer sheet itself. While conducting re-evaluation, this aspect can be specifically examined and instances of this kind would be corrected by awarding marks for correct answers, which have not been evaluated earlier.

The first issue is resolved, accordingly.

(II) No marks have been awarded against certain other correct answers on account of the fact that there is some cutting noted in the scanned copies, though there is no such cutting available on the carbon copies:

The second category of petitioners' grievance has been enumerated in following words:-

The scanned copies have been issued to a large number of candidates in terms of guidelines upon deposit of Rs. 2,000/- as fee. In cases, where it is found that though no cutting exists in the carbon copy retained by the candidate while cutting appears in the answer sheet, it would be appropriate to permit such petitioners to produce materials in support of such allegation before the Examination Regulatory Authority, within a period of two weeks from today, along with certified and/or true copy of this order. The authority would examine such instances and an appropriate decision would be taken and communicated to the petitioner concerned.

(III) The key answers to some of the questions are stated to be clearly wrong as per existing NCERT books and other expert material:

The third issue highlighted on behalf of the petitioners is regarding correction of model answers with reference to various literatures available and relied upon in support of the petitioners' contention. Shri Saroj Yadav has placed before this Court literature in order to show that the answer, mentioned in the uploaded answer key, of question no. 37 of Booklet Series 'A' is not correct and that, a different answer would be the correct answer. Such objection, however, need not to be examined by this Court, on merits, for the simple reason that none of the petitioners has raised such a grievance before the Examination Regulatory Authority within the time which had been allowed for the purpose by the Authority while publishing the schedule of



conduct of examination itself.

I am inclined to take such a view in view of the peculiar facts and circumstances of the present case where 68,500 appointments are to be made and candidates, above 1 lac, have applied pursuant to the advertisement. The schedule of examination was widely published and every candidate was aware of his right to object to the answers, which had been tentatively uploaded on the website of the Authority. Once the petitioners have failed to avail of such opportunity and no objection has been raised, this Court would not be inclined to entertain such objections, now, at this stage. Even otherwise, on merits, it is found that the objections, which had been raised by some of the persons against the answer key, had been placed before the Committee of experts consisting of three Associate Professors of the Allahabad University and its affiliated Colleges and the original proceedings of examining the objections have been produced before this Court. Once the applicants were given an opportunity to file their objections, which has not been availed, this Court would not like to interfere with the opinion of the experts, which are, otherwise, entitled to great respect. In the totality of circumstances, therefore, this Court is not inclined to enter into the issue of correctness of answer and the evaluation would be confined to correct answer key already uploaded by the authorities. Court may, otherwise, note that only one question has been highlighted as containing two possible answers, one of which is alleged to be wrong.

(IV) Against some questions, marks have not been awarded for correct answers on the pretext that there exists some cutting before correct answers have been found recorded though the answers are otherwise legible:

The fourth issue highlighted on behalf of the petitioners is with reference to answers, even when are correct, no marks have been awarded in view of certain cuttings or overwriting, although answers are right and legible. It has already been observed that the Examination Regulatory Authority would not give precedence to form over substance and if the answers are correct, the candidates would be awarded marks, even if there is some cuttings or overwriting. This, however, would be subject to the answer being legible and clear. It is also clarified that if the candidates have given two answers, although they were required to give one answer, then the examining authority would be at liberty to ignore the answer; in as much as, the applicants/candidates are expected to give only one answer and not two answers.

(V) No marks have been awarded to some of the correct answers if the unit such as 'Rupees' or 'Kilometre' etc. has not been written or minor grammatical errors have been made while the answer is materially and substantially correct:

The fifth category of candidates, again, are those who have highlighted the instances of giving preference to form over substance. In order to substantiate the grievance, reference is made to question no. 66, as well as its answer shown in model answer

key, which is extracted hereinafter:

"Q.66. If the wages of 6 men for 15 days be Rs. 2100, then find the wages of 9 men for 12 days.

;fn 6 iq:"kksa dh 15 fnuksa dh etnwjh #- 2100 gks] rks 9 iq#"kksa dh 12 fnu dh etnwjh Kkr dhft,A "

Its answer, as per model answer key, reads as under:-

"#0 2520 ;k Rs. 2520"

It is pointed out that many of the candidates, who have mentioned the answer as "2520" but have failed to mention rupee (Rs.) as unit, have been denied marks. The question intended to test the mathematical ability of the candidate and if the candidate was right, then answer could not have been held wrong only because the unit was not specified in the answer.

Similarly, Question No. 55 of Booklet Series 'A' reads as under:-

"Q.55. Find each of exterior angles of a regular polygon of 10 sides.

,d nl Hkqtkvksa okys fu;fer cgqHkqt ds izR;sd cká dks.kksa dks Kkr dhft,A"

Its answer, as per model answer key, reads as under:-

"36°"

Its answer in the model answer key is specified as '36°'. Some of the candidates have mentioned the correct answer as '36', but the degree sign mentioned is not legible or clear or omitted, which has been treated as a wrong answer. Question No. 135, similarly, is also extracted hereinafter:-

"Q.135. Mohan starts to walk in west direction and wals 3 km, then turns right and walks further 4 km. He further turns left and walks 2 km, again turns left and walks 4 km. How far is Mohan from its origin and in what direction?.

Ekksgu if'pe dh vksj 3 fdoeho pydj viuh nkW;h vksj eqM+rk gS vkSj 4 fdoeho pyrk gS fQj ckW;h vksj eqMdj 2 fdoeho pyrk gS rnqijkUr iqu% ckW;h vksj eqM+dj 4 fdoeho dh nwjh r; djrk gSA og vius pyus ds LFkku ls fdruh nwj o fdl fn'kk esa gS \A "

Its answer, as per model answer key, reads as under:-

"5 fdoeho if'pe"

Some of the candidates, who have written the correct answer, if have failed to clarify kms./kilometer, their answer has been treated as wrong.

From all these questions, it appears that even where the calculation is right, but the unit is omitted, the answer has been treated as wrong. Although writing of unit may be desirable, but its omission ought not to be a ground to deny awarding of marks, since the object is to evaluate the mathematical skill and ability of the candidate himself. The authorities, therefore, for the purpose of re-evaluation, would not given unnecessary importance to such omission in mentioning of unit, etc., like rupee (Rs.) or kms./kilometer, etc. (VI) Gross inconsistencies exist in awarding marks in cases of overwriting inasmuch as for some answers to some students full marks have been awarded despite overwriting though no marks have been awarded to others for similar mistakes:

The sixth category of cases relates to candidates, according to whom, a differential treatment has been meted out to some of them; in as much as, while, in some cases of overwriting, correct marks have been awarded, but it has been denied in other cases. It is alleged by the petitioners that in identical circumstances, for some of the candidates where cutting has been made, the examining body has awarded marks to such candidates, but the similar treatment has been denied to them.

Since this Court has already observed that the Examination Regulatory Authority would adopt an approach that would help the identification of good talent for being recruited as Assistant Teachers in the Institutions throughout the State, mere cutting, etc., would not be a ground to deny consideration of correct answers and the observations, already made while dealing with the second category of persons, would apply here as well.

(VII) For some questions, multiple answers (more than one) have been shown as correct answers in the model/key answer sheet. However, marks have been awarded only for one or the other of the multiple correct answers and not for all:

The seventh category also would not create much difficulty; in as much as, for all right answers shown in the model answer key, the examiner would be required to award marks to the candidates. The evaluation, therefore, would not be restricted to some of the right answers only; in as much as, many of the questions contain multiple right answers.

(VIII) Some of the petitioners claim that they have been declared not qualified though the marks that have been awarded to them as per the scanned copies are clearly above the qualifying marks:

The last category, i.e., eighth category, of cases pertains to those who have not been included in the select list, although, from the perusal of the scanned copy, it appears that they have obtained marks above the cut off prescribed for recruitment. Learned State's counsel, on the basis of the instructions obtained from the Secretary of the

Examination Regulatory Authority, states that all such cases would be duly considered and if candidates have scored marks above the cut off, they would be included in the select list. An opportunity is, however, extended to all such candidates to furnish materials in support of their claim before the Examination Regulatory Authority, within a period of two weeks from today, along with certified and/or true copy of this order.

It appears that some of the petitioners have not availed of the liberty granted under the Government Order dated 05.10.2018 to apply for re-evaluation, for the simple reason that the writ petitions were pending before this Court. It is stated that some of the petitioners were advised not to do so. Since the task of re-evaluation has, otherwise, been made available by the respondents themselves, it would be appropriate to grant one further indulgence to all such petitioners to make their objections or to apply for re-evaluation, within a period of two weeks from today, along with certified and/or true copy of this order. It is made clear that except to grant this opportunity, no further opportunity would be extended to any of the persons to raise a fresh grievance. Exercise of re-evaluation would be carried out by the Examination Regulatory Authority on the basis of observations, made above, and in accordance with law. Aforesaid guidelines are necessary in order to ensure that the candidates are treated fairly and unnecessary further litigation, in respect of the recruitment itself, could be avoided on the questions already formulated.

The Secretary of the Examination Regulatory Authority states that the task of re-evaluation would be completed expeditiously, preferably, within a period of two months from today. It is, however, provided that so long as such exercise is not completed, the left over seats/vacancies of the recruitment in question would not be subjected to a fresh process of recruitment.

With the observations/directions aforesaid, this petition stands disposed of, accordingly.

No order is passed as to costs.

Order Date :- 30.10.2018 Amit Mishra