REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5838 OF 2018
(Arising out of SLP (C) NO. 12472 OF 2018)

U.P.P.S.C., Through its Chairman & Anr. ... Appellant (s)

Versus

Rahul Singh & Anr. ...Respondent(s)

With

CIVIL APPEAL NO.5839 OF 2018
(Arising out of SLP (C) No.13166 of 2018)

And

CIVIL APPEAL NOS. 5840-5842 OF 2018
(Arising out of SLP(C) Nos.13567-13569 OF 2018)

J U D G M E N T

Deepak Gupta, J.

1. Applications for impleadment are allowed.

Leave granted.

3. These appeals are being disposed of by a common judgment since they arise out of one judgment delivered by the High Court of Allahabad on 30.03.2018.

4. Briefly stated, the facts necessary for the decision of this case are that the appellant U.P. Public Service Commission (for short 'the Commission') issued an advertisement on 22.02.2017 inviting applications for filling up vacancies in the Upper Subordinate Services of the State. The selection is conducted through a three stage test consisting of preliminary written examination, main examination and interview. Those candidates who clear the preliminary examination are entitled to appear in the main examination.

5. The preliminary examination consisted of two papers namely General Studies-I and General Studies-II. We are in this case concerned only with the General Studies-I paper which carried 200 marks and consists of 150 objective type questions with multiple choice answers. After the preliminary examination was conducted, key answers were published by the Commission. Many persons

including the petitioners before the Allahabad High Court contended that some of the key answers were incorrect or that some of the questions had more than one correct answer.

6. It is not disputed before us that the Commission initially constituted two separate expert committees; one comprising of 15 experts and the other comprising of 18 experts. This was done even before the key answers were displayed on the official website of the Commission. After these two committees gave their expert opinion the key answers were uploaded on the official website of the Commission during the period 18.11.2017 to 23.11.2017. Objections to the key answers were to be submitted by 24.11.2017.

7. The Commission received 962 objections. The Commission constituted a committee consisting of 26 members to consider the objections raised by the candidates. This 26 member expert committee examined all the objections over a period of two days and, thereafter, on the basis of the recommendations of this committee 5 questions were deleted and the key answers of 2 questions were changed. As a consequence the result was declared

on the basis of 145 questions. Thereafter, various candidates filed writ petitions in the Allahabad High Court wherein challenge was raised to the correctness of the key answers in respect of 14 questions. The High Court examined these questions and after elaborate discussion and reasoning negatived the prayer of the petitioners in respect of 11 questions but in respect of one question the High Court held that the question should be deleted; in respect of another question it held that there were two correct answers and in respect of one more question it disagreed with the view of the Commission and accepted the submission of the petitioners that the answer given in the key was incorrect. This judgment is under challenge in these appeals.

8. In the appeal filed by the Commission it has been urged that the High Court transgressed its jurisdiction and went beyond the scope of judicial review available in such cases and it should not have overruled the view of the Commission which was based on the report of two committees of experts. On the other hand one of the original writ petitioners in his appeal claims that as far as the question where the High Court has held more than one answer is

correct, the same should be deleted and in respect of another question it is urged that the High Court wrongly accepted the answer of the Commission.

9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

10. In ***Kanpur University, through Vice Chancellor and Others*** vs. ***Samir Gupta and Others*** [1], this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong. Following observations of the Court are pertinent:-

1 (1983) 4 SCC 309

> "**16**.....We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should 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 Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In ***Ran Vijay Singh and Others*** vs. ***State of Uttar Pradesh and Others***[2], this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms:-

> **"30.** The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:
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> **30.1.** If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;
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> **30.2.** If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;
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> **30.3.** The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

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2 (2018) 2 SCC 357

> **30.4.** The court should presume the correctness of the key answers and proceed on that assumption; and
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> **30.5.** In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

We may also refer to the following observations in Paras 31 and 32 which show why the Constitutional Courts must exercise restraint in such matters:-

> **"31.** On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse — exclude the suspect or offending question.
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> **32.** It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not;

> whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In ***Kanpur University*** case (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the

Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. In the present case we find that all the 3 questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain text books. When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

15. In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the *prima facie* view that the answer given by the Commission is correct.

16. In view of the above discussion we allow the appeal filed by the U.P. Public Service Commission and set aside the judgment of the Allahabad High Court. The appeals filed by Rahul Singh and Jay Bux Singh and Others are dismissed. All pending applications stand disposed of.

.....**J.**
(Uday Umesh Lalit)

.....**J.**
(Deepak Gupta)

New Delhi
June 14, 2018