



Radha Kant Ojha (Sr. Adv.), Shatrughan Sonwal,  
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learned C.S.C and Ms.Shruti Malviya,  
Brief Holder in all Writ Petitions.

**Counsel for the Respondents:**

Arun Kumar, C.S.C., Kushmondeya Shahi

**Civil Law - Constitution of India, 1950 - Article 226 - Judicial Review of Answer Key provided by the Expert Committee - Whether court should interfere with the evaluation process of the Assistant Teacher Recruitment Examination (ATRE) 2018, specifically regarding objections to the answer key, unevaluated answers, cuttings/overwriting, omission of units, and discrepancies in awarding marks? Held: 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. Constitutional courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. 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. The court should presume the correctness of the key answers and proceed on that assumption, and in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. (Para 12)**

**Dismissed.** (E-5)

(Delivered by Hon'ble Saurabh Shyam  
Shamshery, J.)

1. Heard Sri Shivendu Ojha and Sri Shatrughan Sonwal, learned counsel for petitioner in leading W.P.No.11837 of 2020 and respective Ld. Counsel in connected Writ Petitions on behalf of petitioners, Sri K.Shahi, Sri K. K. Chand, learned counsel for the B.S.A., Sri Ashish Nagwanshi, learned A.C.S.C, Sri Rajeshwar Tripathi

2. This present bunch of Writ Petitions, arises out of an Assistant Teacher Recruitment Examination, 2018 and objections to answers given by the petitioners to some questions of said examination.

3. It is the case of the petitioners that if their objections are considered and accordingly their respective marks are increased, they may cross cut off marks i.e. 67 marks for General Category or 60 marks for SC Category, as the case may be.

4. This dispute has earlier brought before a Co-ordinate Bench of this Court in Writ Petition No.18235 of 2018, Aniruddh Narayan Shukla and 118 Ors Vs. State of U.P. & 3 Ors, which was disposed of vide judgment dated 30.10.2018, wherein certain directions were passed for re-evaluation of answers and for reference directions given therein are reproduced hereinafter:

“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.

*(1) 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.*

*यदि 6 पुरूषों की 15 दिनों की मजदूरी रू. 2100 हो, तो 9 पुरूषों की 12 दिन की मजदूरी ज्ञात कीजिए।*

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

*रू० 2520 या 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.*

*एक दस भुजाओं वाले नियमित बहुभुज के प्रत्येक बाह्य कोणों को ज्ञात कीजिए।"*

*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?."*

मोहन पश्चिम की ओर 3 कि०मी० चलकर अपनी दायी ओर मुड़ता है और 4 किमी० चलता है फिर बायी ओर मुड़कर 2 कि०मी० चलता है तदुपरान्त पुनः बायी ओर मुड़कर 4 कि०मी० की दूरी तय करता है। वह अपने चलने के स्थान से कितनी दूर व किस दिशा में है? "

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

*"5 कि०मी० पश्चिम।*

*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.”*

5. Another Co-ordinate Bench of this Court in (Writ Petition No.5365 of 2019), Radha Devi & 2 Ors Vs.State of U.P. & 3 Ors, order dated 17.5.2019, also has considered answer key of same examination and in reference question no.10 of Booklet Series ‘C’ has held it’s answer “दीर्घ सन्धि” “स्वर सन्धि”. Relevant part of said order is reproduced hereinafter:

*“Expert report with regard to the answer to question Nos.10 & 55 of question Booklet Series-C produced by the learned Standing Counsel is taken on record.*

*It is demonstrated by the learned counsel for the petitioner from the question booklet series-C, key answer and answer scripts of petitioner no.3 that answers given by him to question nos.10 & 55 are correct. Two marks are, therefore, to be provided to the petitioner No.3 for the said answer. Initially, in the original result the petitioner got 63 marks and after re-evaluation, his marks have been raised to 65 by assigning marks to question Nos.52 & 54.*

*The respondent no.4 namely, Secretary, Examination Regulatory Authority, U.P., Allahabad is directed to make correction in the result of the petitioner No.3 by providing two more marks to the question nos.10 & 55. The corrected result of the petitioner no.3 shall be uploaded at the website within a fortnight from today.*

*The writ petition is allowed to the above extent.”*

6. Aforesaid order was challenged in Special Appeal Defective No.756 of 2019, by the State, however it was dismissed vide order dated 20.8.2010. For reference same is reproduced hereinafter:

“Order on Appeal

*Heard Sri Ajit Kumar Singh, learned Additional Advocate General, assisted by Sri Pankaj Rai, Additional Chief Standing Counsel, for the State-appellant and Sri Radha Kant Ojha, Senior Counsel, assisted by Sri Avnish Tripathi, learned counsel for the respondents.*

*The present appeal has been filed challenging the judgement and order dated 17.5.2019 passed in Writ - A No. 5365 of 2019 whereby the learned Single Judge has directed the correction of the result of the petitioner therein in respect to two questions. The two questions i.e. Question Nos. 10 and 55, the answer given by the candidate and Model Answers are quoted herein below:*

*Q. No. 10 : “ सुखार्तः” में कौन सी सन्धि है?*

*The answer given by the petitioner is : दीर्घ सन्धि while the model answer is : वृद्धि सन्धि/स्वर सन्धि।*

*Q. No. 55 : The Rehabilitation Council of India (RCI) is established for the education of which type of children ?*

*'भारतीय पुर्नवास परिषद' की स्थापना किस प्रकार के बच्चों के शिक्षा के लिए दी गई है?*

*The answer given by the petitioner is : 'पिछडे बालकों के लिए एवं विशिष्ट बालकों' while the model answer is : ' विकलांग/दिव्यांग बच्चो हेतु/ शारीरिक रूप से अक्षम/ विशिष्ट बालक/ पी०डब्लू०डी०/ निशक्त / अक्षम'।*

*Sri R.K. Ojha, learned Senior Counsel for the respondents, has brought to our notice the earlier order passed in this writ petition being order dated 3.5.2019 wherein learned Single Judge had held that the model answer to Question No. 10 was a wrong answer based upon the reference material which was brought before the Court to demonstrate that the correct answer is what was given by the petitioner*

*and not as was indicated in the model answer.*

*With regard to Question No. 55, learned Single Judge found that the answer was correct as per the model answer and on that basis the Court had directed for addition of two marks. The State Government has not challenged the order dated 3.5.2019 as such the said order is not to be adjudicated. As regards the addition for the answer given of Question No. 55 the same is squarely covered by our decision in Special Appeal No. 902 of 2019 (State of U.P. And 3 Others vs. Pradeep Kumar) and two other connected appeals, decided on 13.8.2019. In view of the fact that the order dated 3.5.2019 is not under challenge, we hold that there is no infirmity in the judgement and order dated 17.5.2019, as a result thereof, special appeal is liable to be dismissed.*

*The special appeal is, accordingly, dismissed.*

7. State of U.P. has further challenged the above referred order by way of a Special Leave Petition No.11462 of 2020, which was dismissed by Supreme Court vide order dated 9.10.2020.

8. It is further case of the petitioners that subsequent to the order passed in Aniruddh Shukla (supra), they have filed their respective objections. However, their answers were not considered in terms of Aniruddh Shukla (supra), therefore, they are prejudiced.

9. During the hearing, Court has asked learned counsels for the petitioners to take instructions that if the objections raised in respective writ petitions are allowed in totality, whether they will be able to cross the cut off marks or not and the matter was adjourned for that purpose.

10. On the date of final hearing, learned counsel for the petitioners have submitted that only in following Writ Petitions if their objections are found to be correct and their numbers are increased, they would cross cut off marks and details of said writ petitions are as follows:

1. Writ A No. 11837 of 2020
2. Writ A No. 13075 of 2020
3. Writ A No. 12239 of 2020
4. Writ A No. 1628 of 2021
5. Writ A No. 12185 of 2020
6. Writ A No. 12418 of 2020
7. Writ A No. 917 of 2021
8. Writ A No. 14096 of 2020
9. Writ A No. 13564 of 2020
10. Writ A No. 12000 of 2021
11. Writ A No. 12692 of 2020
12. Writ A No. 12467 of 2020
13. Writ A No. 12419 of 2020
14. Writ A No. 12629 of 2020
15. Writ A No. 13506 of 2020

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11. In aforesaid circumstances, Court is not considering rest of writ petitions since it would be a futile exercise and they are disposed of with the observation that even if their objections are considered they will not be able to cross cut off marks. Details of said writ petitions are mentioned hereinafter:

1. Writ A No. 11420 of 2020
2. Writ A No. 11674 of 2020
3. Writ A No. 11683 of 2020
4. Writ A No. 11713 of 2020
5. Writ A No. 11721 of 2020
6. Writ A No. 11732 of 2020
7. Writ A No. 11742 of 2020
8. Writ A No. 11938 of 2020
9. Writ A No. 12187 of 2020
10. Writ A No. 12200 of 2020
11. Writ A No. 12221 of 2020

12. Writ A No. 12223 of 2020
13. Writ A No. 12401 of 2020
14. Writ A No. 12427 of 2020
15. Writ A No. 12444 of 2020
16. Writ A No. 12455 of 2020
17. Writ A No. 12472 of 2020
18. Writ A No. 12538 of 2020
19. Writ A No. 12708 of 2020
20. Writ A No. 12979 of 2020
21. Writ A No. 13030 of 2020
22. Writ A No. 13048 of 2020
23. Writ A No. 13174 of 2020
24. Writ A No. 13214 of 2020
25. Writ A No. 13279 of 2020
26. Writ A No. 13282 of 2020
27. Writ A No. 13294 of 2020
28. Writ A No. 13357 of 2020
29. Writ A No. 13776 of 2020
30. Writ A No. 14287 of 2020
31. Writ A No. 15040 of 2020
32. Writ A No. 15044 of 2020
33. Writ A No. 15105 of 2020
34. Writ A No. 15109 of 2020
35. Writ A No. 15114 of 2020
36. Writ A No. 15149 of 2020
37. Writ A No. 1632 of 2021

38. Writ A No. 638 of 2021
  39. Writ A No. 1681 of 2021
  40. Writ A No. 1707 of 2021
  41. Writ A No. 178 of 2021
  42. Writ A No. 1888 of 2021
  43. Writ A No. 2112 of 2021
  44. Writ A No. 4157 of 2021
  45. Writ A No. 4350 of 2021
  46. Writ A No. 652 of 2021
  47. Writ A No. 811 of 2021
  48. Writ A No. 8604 of 2021
  49. Writ A No. 871 of 2021
  50. Writ A No. 9099 of 2021
  51. Writ A No. 92 of 2021
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12. The Court has considered rival submissions keeping in mind, the settled position of law of scope of judicial review/interference under Article 226 of Constitution of India on the issue that key answers provided by the Expert Committee as well as in such cases court's must exercise restraint. For reference, relevant part of the judgment passed by Supreme Court in the case of **Ran Vijay Singh & Ors. Vs. State of U.P. & Ors, (2018) 2 SCC 357, Vikesh Kumar Gupta Vs. State of Rajasthan & Ors, 2021 (2) SCC 309, Uttar Pradesh Public Service Commission through its Chairman & Anr Vs. Rahul Singh & Anr, (2018) 7 SCC 254, Division Bench judgment of this Court in Special Appeal No.242 of 2022, Jitendra Singh Vs. Union of India & Anr, Neutral Citation No.2024:AHC:125327-DB** as well as judgment passed in Writ Petition No.6605 of 2022, Pragati Agarwal & Ors. Vs. State of U.P. & Anr, Neutral Citation No.2024:AHC:18999. are reproduced hereinafter:-

**“ Ran Vijay Singh & Ors. Vs. State of U.P. & Ors**

*30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:*

*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;*

*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;*

*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;*

*30.4. The court should presume the correctness of the key answers and proceed on that assumption; and*

*30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.*

*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.

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.

**Uttar Pradesh Public Service Commission through its Chairman & Anr Vs. Rahul Singh & Anr**

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 [Kanpur University v. Samir Gupta, (1983) 4 SCC 309]*, 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 answers is better or more correct.*

14. *In the present case, we find that all the three 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 textbooks. 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.***

13. Court also takes note of Division Bench judgment passed in Special Appeal No.79 of 2020, Alok Kumar & Anr Vs. Sate of U.P. & Ors, Neutral Citation No.2024:AHC-LKO:58065-DB, arising out of Examination ATRE, 2018 and for reference, relevant part of it is reproduced hereinafter:

“ 32. *For all these reasons, though we appreciate the efforts made by the learned counsel for the appellants but howsoever attractive their arguments may appear, purely on facts, this is not a case where this Court should interfere with the judgment of the Writ Court in an Intra Court appeal. Even if some of the reasonings given by the Writ Court are erroneous, the dismissal of the writ petitions by the Writ Court is sustained for the reasons given hereinabove, therefore, all the appeals fail and are accordingly dismissed.*

33. *At this stage, learned counsel for the applicants submitted in unison that almost all the appellants have become overage. Shri Shukla, learned counsel*

*appearing in one of the appeals submitted that most of the appellants before this Court are "Shikshamitras" and Hon'ble Supreme Court in Anand Kumar Yadav (supra) had issued directions for relaxation in age for two recruitments, which they have already availed, therefore, some direction be issued in this regard. If any of the appellants herein are entitled to any benefit under the judgment of Hon'ble the Supreme Court passed in the case of Anand Kumar Yadav (supra), then needless to say, the same would be available to them irrespective of this judgment.*

34. *It is further provided that if there is any provision in any Rule for relaxation of maximum age and there is no legal impediment in considering such relaxation in the context of the appellants herein, then the State Government may consider this as per law.*

35. *There is another aspect of the matter which requires our consideration. Out of 68,500 vacancies, for which qualifying examination was held, only 41,556 candidates were qualified, who may have appeared in the subsequent recruitment process initiated by the advertisement dated 20.08.2018. Moreover, it is informed that thereafter, another recruitment process for filling up 69,000 posts of Assistant Teacher was initiated/ advertised on 05.12.2018, but these posts were not included 27,713 posts against which the qualifying examination ATRE 2018 was held and which are the subject matter of these appeals. We asked the learned counsel for the Board and the State as to why another ATRE has not been held after 2018. They submitted that there was some litigation pending in respect of other advertisements. We see no justification for not holding another ATRE after 2018. We therefore direct the State Government and the Board, whosoever may be responsible*

*in this regard, to take immediate steps for holding ATRE in terms of the relevant rules, unless there is any legal impediment in this regard. We further direct that if there is no legal impediment, the said examination should be held at the earliest and decision with regard to holding of ATRE shall be taken within a period of two months from today and in that context, the relaxation of age pertaining to the appellants herein shall be considered as far as it may be permissible as per the law. If there are any legal impediments, then an advertisement to this effect should be published in at least two newspapers (one in Hindi and another in English) having wide circulation through out the State of U.P., so that the candidates may at least know as to why the said examination is not being held.“*

14. Now the Court deals with above referred writ petitions individually.

15. Learned counsel for the petitioners as well as learned counsel for the State have also prepared a chart for convenience of this Court and Court is heavily relying on the said charts.

**16. Writ Petition No.11837 of 2020, Prashant Rai Vs. State of U.P. and Ors..**

In this case, petitioner has got 61 marks in original result and after re-evaluation, his number remained same i.e. 61 and in order to qualify he requires at least 67 marks i.e. 6 more marks.

The petitioner has raised dispute in regard to question nos.3,5,124, 135, 140, 141 and 142 of Series ‘D’.

According to learned counsel for State, objection to questions nos.3,5,135 and 140 were already considered and numbers were given which were included in 61 marks.

So far as remaining 3 questions i.e. 124, 141 and 142 are concerned, petitioners have not answered question No.124, therefore, no marks can be given.

The Question No.141 was “Where in India was the First French factory established? which was answered by petitioner as ‘Gujarat’ however, according to answer key it was ‘Surat, Gujrat’, therefore, no marks was granted.

Learned counsel for the petitioner has not disputed that First French factory was established at Surat ‘Gujarat’ and most appropriate answer would be ‘Surat, Gujarat’ and not Gujarat only, therefore, no interference is caused.

In this writ petition dispute has also raised in regard to question nos.37, 45, 57, 136 and 144 for the first time, wherein correct answer to the question no.37 was ‘तमिलनाडू’ whereas the petitioner has answered ‘तमील-नाडू’ as well as he has cut ‘Jammu and Kashmir’, therefore, the answer ‘तमील नाडू’ with a gap cannot be considered as a correct answer.

So far as question nos.45 and 144 are concerned, marks have already been given on first evaluation, therefore, even if the Court considers answer nos.44,57,136 and 144 to be correct, petitioner will get only 64 number i.e. below the cut off marks of 67.

So far as last Question No.142 is concerned i.e. “Who was the President of State Constitution Committee” and the correct answer was “Sardar Vallabh Bhai Patel”, however the answer mentioned was “Dr. Bhim Rao Ambedkar” and since the petitioner has not been able to show that the answer given in the answer key was wrong, therefore, objection is rejected.

In the aforesaid circumstances, petitioner cannot be awarded any extra marks. Writ Petition No.11837 of 2020 is accordingly dismissed.

**Writ Petition No. 13075 of 2020**  
**, Sandeep Singh Vs. State of U.P. & Ors.**

In the present case petitioner got 64 marks before evaluation and subsequent to it, he got 66 marks, as such he still requires at least 2 marks to qualify.

In this writ petition dispute was in regard to Question Nos.93, 101, 110 and 114.

According to State in regard to Question Nos. 93, 110 and 114, petitioner was awarded one mark each.

So far as Question No.101 is concerned, petitioner has answered '100 j vidyut urja', whereas the correct answer would be 100 watt or 100 joule per second or 100 KJ/h, therefore, petitioner has mentioned unit of power wrongly.

In this regard, Court takes note of a judgment of **Aniruddh Narayan Shukla (supra)**, wherein certain exemptions were granted in regard to unit. However, in the present case which is arising out of subject Physics, wherein Unit is also an important factor and since in the present case petitioner has written 'vidyut urja' which is not a unit of Power and correct unit is either 'Watt' or 'joule per second' or KJ/h, therefore, no number could be granted to the said answer.

In these circumstances, petitioner was awarded  $64+3=67$  marks. However, Question No.122 was also re-evaluated, wherein answer was  $(x-6)(x-3)$ . However, the petitioner has also added  $x=6/x=3$ , which was not required, therefore, 1 number which was granted to said question was rightly deducted, accordingly, he got 66 marks i.e. less than the cut off marks. No extra number could be granted. Therefore, this writ petition is accordingly dismissed.

**Writ Petition No. 12239 of 2020**  
**Shivram Chaturvedi Vs. State of U.P. & Ors.**

In the present case petitioner got 66 marks before evaluation and subsequent to re-evaluation, he got 66 marks, as such he was required at least 1 marks to qualify the cut off.

In this writ petition a dispute was in regard to Question Nos. 66, 73 and 113.

According to State in regard to Question Nos. 66, 73 and 113 petitioner was awarded one mark each. In these circumstances, petitioner would get  $66+3=69$  marks. However, in this re-evaluation process, questions nos.40, 130, 133 were also re-evaluated. Wherein answer of question no. 40 was 'बहुत्वा' whereas petitioner has also added 'सदृशे वर्तते', which was not required.

The answer of question no. 130 was 'गीतांजलि'. However, petitioner has given the answer as 'गीजांजलि' which is absolutely wrong and cannot be considered to be a grammatical mistake.

So far as Question No.133 is concerned, petitioner has answered 'E36', whereas the correct answer would be 36E, therefore, petitioner has reversed the answer, which was against the algorithm of said question.

In aforementioned one number each granted earlier to questions 40, 130 and 133 were rightly deducted. Accordingly petitioner got  $69-63=66$  marks i.e. less than cut off marks. There is no error awarding and deduction of marks. Therefore, this writ petitioner is accordingly dismissed.

**Writ Petition No. 1628 of 2021**  
**Mahesh Kumar Gola Vs. State of U.P. & Ors.**

In the present case petitioner got 65 marks before evaluation and

subsequently he got 66 marks as such he was required only 1 mark to qualify.

In this Writ Petition dispute was in regard to Ques. Nos. 16 ,36, 37, 82 and 99.

According to State in regard to Ques.Nos. 36, petitioner was granted one mark. One mark was also given for Ques.No. 37 in terms of Radha Devi (supra).

So far as Ques.No. 82 is concerned, petitioner has answered '1854 घोषणा पत्र' whereas the correct answer would be ' घोषणा पत्र/वुड का आज्ञापत्र / वुड का घोषणा पत्र (1854)/वुड डिस्पैच/वुड का आज्ञापत्र (1854)' therefore, petitioner has not mentioned the word 'वुड' which made his answer absolutely incorrect as the despatch was made by Charles Wood in 1854, suggesting primary schools to adopt vernacular education, which recognize the importance of local languages in primary schools , therefore, no number was granted during re-valuation.

So far as Ques.No. 16 is concerned, petitioner has answered 'भाववाचक', whereas the correct answer would be 'भाववाच्य', Petitioner has mentioned 'type of noun' in place of वाच्य (voice) which makes answer rendered absolutely wrong . "भाववाच्य में क्रिया का भाव प्रधान होता है जबकि भाववाचक में कोई विशेष भाव या स्थिति को दर्शाया जाता है" Although it might be a grammatical mistake but it totally change the sense of answer as per requirement of this question, therefore, no marks was granted for this question.

So far as Ques.No. 99 is concerned, petitioner has answered 'जड, मूड, क्षण, मन्द, 70-79, सामान्य, श्रेष्ठ, उत्कृष्ट, प्रतिभाशाली', whereas the correct answer would be 'जड़बुद्धि, मूढ़, मूर्ख /81-90, 80-89, 90 से कम सभी I.Q वर्ग/ मूर्ख, मूढ़, जड/मन्दबुद्धि, अल्प बुद्धि जड़बुद्धि, ' therefore, petitioner has mentioned wrong

series of I.Q. and mentioned 70-79 IQ for only one segment. Therefore, no mark was granted for this question.

In this regard, Court takes note of a judgment passed in Aniruddh Narayan Shukla (supra) wherein this question has been discussed and some exemption was granting regarding I.Q. and also suggest not to be hyper technical approach during evaluation of this question, still petitioner's answer was not sufficient to consider, hence during evaluation no mark was granted to said answer.

In these circumstances, petitioner was awarded (65+2= 67) marks, however, Ques.No. 40 was also re-evaluated wherein answer was 'बहुरत्ना', however, petitioner has added prefix and suffix to and mentioned 'विस्मयो नहि कर्तव्यो बहुरत्ना वसुन्धरा' which was not required, therefore, one mark granted earlier was rightly deducted, accordingly he got 67-1= 66 marks i.e. less than cut off marks. Therefore, there is no ground to grant any additional marks accordingly this Writ Petition is dismissed.

12185 of 2020, Nihal Singh Vs State of U.P. and Others

In the present case petitioner got 62 marks before evaluation and subsequent to it, he got 65 marks, as such he still requires at least 2 marks to qualify.

In this writ petition a dispute was in regard to Question Nos.2,4,50 and 119 of series-D.

According to State one mark each was granted to answer of Question Nos.50 and 119 and 1 mark was given for question number 57 in terms of Radha Devi (supra) i.e. 62+3=65 marks.

In respect of Question No.2 , petitioner has answered संवाद विधि (वाद-विवाद), whereas correct answer would be विचार-विमर्श/सहकारी/वाद-विवाद/ सहभागी शिक्षण /समूह चर्चा/रचिपूर्ण समूह चर्चा, संवाद विधि and वाद विवाद which is not

required here, hence no number was granted to said answer during re-evaluation.

In regard to Question Number 4, petitioner has answered बच्चो की प्रोफायल तैयार करना, where is the correct answer would be संचयी अभिलेख/उपाख्यानात्मक (एनेक्डोटल) अभिलेख/ छात्र प्रोफाइल/ छात्र प्रगति अभिलेख/ संचित अभिलेख/ पोर्टफोलियो. The answer given was not absolutely correct, but still one mark has been given, but it will still not be helpful to petitioner since as required above petitioner was awarded  $62+3=65$  marks, i.e. less than the cut off marks and addition of one mark will not cross the cut off. Therefore, this writ petition is accordingly dismissed.

**Writ Petition No.12418 of 2020, Kusum Singh vs State of U.P. and Ors.**

In the present case petitioner got 62 marks before evaluation and on re-evaluation he got 65 marks, as such he still requires at least 2 marks to qualify.

In this writ petition a dispute was in regard to Question Nos 13, 18, 22, 33, 78, 100, 139.

According to State in regard to Question Nos 18, 22, 33 and 100 petitioner was awarded one mark each i.e.  $62+4=66$  marks.

However, Question No. 78 was also re-evaluated, wherein the answer was 24 sq. cm. or 24 cm<sup>2</sup> However, the petitioner has answered only 24 cm. Therefore, petitioner has used the unit wrongly

In this regard court takes note of judgement in Anirudh Narayan Shuka (supra) wherein certain exemptions were granted in regard to use of unit in answer, however, the present question which is arising out of subject maths wherein unit is also a very important factor and since in the present case petitioner has mentioned only cm. which is not a unit of area (क्षेत्रफल)

whereas correct unit of area would be square of m, cm, mm, or inch. therefore, 1 number which was granted to said question earlier was rightly deducted, accordingly petitioner got  $66-1=65$  marks which is less than cut off marks.

The answer to question no.139 i.e. सहभागी शिक्षण विधि could be considered as a correct however even one more mark is granted, still it would be less than 67 marks. Therefore, this writ petition is accordingly dismissed.

**Writ Petition No. 917 of 2021, Rashmi Shikha Singh Vs. State of UP & Ors.**

In the present writ petition, petitioner got 64 marks, however, on re-evaluation he got 65 marks as such she is still 2 marks less than the required cut off.

In this writ petition, the dispute is with regard to Question Nos.7,10,21,131,139. However, State has not given any instruction since no objection has been filed by the petitioner after the judgement of Aniruddh Narayan Shukla (supra), still for the ends of justice the Court is considering this writ petition on merit.

In Question No.7, petitioner has written 'द्विगु समास' whereas correct answer is द्विगु समास/तत्पुरुष, therefore, answer appears to be correct, hence petitioner may be awarded 1 mark for this question.

With regard to Question No. 10, petitioner answered दीर्घ सन्धि whereas the correct answer is वृद्धि सन्धि/ स्वर सन्धि. In this regard the Court take the reference of the judgement of State of UP & Ors. Vs Radha Devi & Ors. ( Special Appeal Defective 756 of 2019) wherein the answer दीर्घ सन्धि was considered to be correct. Therefore, the present case fall within the said judgement and said answer of petitioner is correct.

Therefore, the petitioner may be awarded 1 marks to this answer.

In respect of Question No.21, petitioner has given the answer 'He' and also appears to be correct answer according to answer key. Therefore, so far as this question is also concerned, 1 mark may be awarded.

In Question No.131, petitioner has given the answer 'अचल कुमार जोशी' whereas the correct answer is अचल कुमार ज्योती/ ए.के. ज्योती, therefore, no marks can be awarded to said answer.

With regard to Question No.139, answer of the petitioner is दीन दयाल बन्दगाह and the correct answer is दीन दयाल पोर्ट/ दीन दयाल बंदरगाह/ पं. दीनदयाल उपाध्याय/ दीनदायल. Therefore, the petitioner may be provided 1 marks for the said answer.

In these circumstances, the petitioner may get  $64+4=68$  marks i.e. greater than the cut off. The Court takes note that since State has not brought any details of revaluation in regard to the petitioner, therefore, it may be a case that above marks may already being included in total marks, therefore in the interest of justice, case of the petitioner be re-examined by The Examination Regulatory Authority. This writ petition is accordingly disposed of.

**Writ Petition No. 14096 of 2020, Divya Mishra Vs. State of U.P. & Ors.**

In the present case petitioner got 60 marks and subsequent to re-evaluation, she got 64 marks, as such she still requires at least 3 marks to qualify.

In this writ petition a dispute was in regard to Question Nos.1, 10, 20, 35, 78, 94, 106, 110.

According to State in regard to Question Nos. 1, 35, 78, 94, 110, petitioner

was awarded one mark for each i.e. awarded  $60+5=65$  marks.

So far as Question No.10 is concerned, petitioner has answered 'NITE', whereas the correct answer would be 'NCTE', since both are two different Institutions, hence petitioner has answered wrongly. Therefore, on re-evaluation, no mark was given. Therefore, there is no illegality.

In Question No. 106, the petitioner has given two answers 'पलमोनरी , अरोटा' whereas the correct answer would be 'फुफ्फुस शिरा/पल्मोनरी शिरा'. Therefore, on re-evaluation, no marks was given, therefore, it is not a case for interference.

In these circumstances, petitioner was awarded  $60+5=65$  marks. However, Question No. 139 was also re-evaluated, wherein the answer was वुड का घोषणा पत्र/ वुड का आज्ञा पत्र/ वुड का घोषणा पत्र (1854) /वुड डिस्पैच / वुड का आज्ञापत्र (1854). However, the petitioner has answered 'वुड का घोषणा पत्र (1835)', which is the wrong year, therefore, 1 number which was granted to said question earlier was rightly deducted, accordingly, he got 64 marks i.e. less than cut off marks.

In these circumstances answer to Question No. 20 i.e. अंपंग बच्चो के लिए may be considered as a correct answer, but addition of one mark would not qualify the petitioner as he would still be short by 2 numbers. Therefore, this writ petition is accordingly dismissed.

13564 of 2020, Deepak Kumar Vs. State of U.P. & Ors.

In the present case petitioner got 65 marks and on re-evaluation, marks remain same i.e. 65, as such he was required at least 2 marks to qualify.

In this writ petition a dispute was in regard to question nos. 35, 47, 69, 119, 128.

According to State in regard to Question Nos.35, 119 and 128 petitioner was awarded one mark each i.e.  $65+3=68$  marks.

So far as Question No.47 is concerned, the correct answer would be निर्व्यूह/अव्यूह, whereas petitioner has answered 'आव्यूह', which is not the right answer. Therefore, on re-evaluation, no mark was required to be given.

As regards Question No.69, correct answer would be 'हरबाट' whereas the petitioner has answered 'हर्बट स्पेन्सर' which is not right.

In this regard, Court takes note of a judgment in Aniruddh Narayan Shukla (supra), wherein certain exemptions were granted in regard to spelling of 'हरबाट'. However, the present case does not fall within the said exemption since petitioner has added 'Spencer' which refers to different person. Therefore, during re-evaluation, no number was rightly granted to said answer.

In these circumstances, petitioner was awarded  $65+3=68$  marks. However, Question No. 48, 61, and 148 were also re-evaluated. Answer for Question No.61, would be 'भावात्मक पक्ष/भावपक्ष/संवेगात्मक पक्ष' whereas the petitioner has answered 'व्यक्तिगत पक्ष' an absolutely wrong answer. Lastly, correct answer to Question No. 147, would be 'अक्षय कुमार' whereas the petitioner has answered 'अक्षल कुमार', a wrong answer. Therefore, 1 mark for each which were earlier granted to said three questions were deducted, accordingly, he got  $68-3=65$  marks i.e. less than the cut off marks.

Answer to Question No.48 is द्विगु समास/तत्पुरुष समास and petitioner has mentioned 'द्विगु समास' though spelling is wrong, still considering it a minor mistake, one mark could be given, but it would make only 66

marks i.e. he would still be short of cut off marks. Therefore, this writ petition is accordingly dismissed.

**Writ Petition No. 12000 of 2021, Km. Prashali Vs. State of U.P. & Ors.**

In the present case petitioner got 63 marks and on re-evaluation she got 65 marks, as such she was required at least 2 marks to qualify.

In this writ petition dispute is only in regard to Question Nos. 10, 20, 23, 44, 52, 68, 99.

According to State in regard to Question Nos. 10 and 99, petitioner was awarded one marks each i.e.  $63+2=65$ .

So far as Question No.20 is concerned, petitioner has answered '100 शक्ति', whereas the correct answer would be '100 watt' or '100 joule/s' or 100 J/s or 360 kJ/h, therefore, petitioner has mentioned the unit wrongly.

In this regard, Court takes note of a judgment of Aniruddh Narayan Shukla (supra), wherein certain exemptions were granted in regard to Unit. However, in present case which is arising out of subject Physics wherein Unit is also an important factor and since in the present case petitioner has mentioned 'shakti' which is not a unit of Power and correct unit is either 'joule per second or KJ/h, therefore, on re-evaluation, no number was granted to the said answer.

In regard to Question No. 23, petitioner has answered 'vehicles' whereas the correct answer would be 'A self propelled vehicle/ vehicle/a boxy open-topped wooden machine with three wheels'. Therefore, after revaluation, no marks was given to the said answer.

In Question No.44, petitioner has answered 'प्रत्युत्पन्नमती' whereas the correct answer would be 'प्रत्युत्पन्नमति/प्रतिउत्पन्नमति'. Therefore, on re-evaluation, no marks

could be given to the said answer as both the words imply different meaning.

In Question No. 52, the correct answer would be 'जड़बुद्धि, मूढ़, मूर्ख/81-90, 80-89, 90 से कम सभी I.Q. वर्ग/मूर्ख, मूढ़, जड़/मन्दबुद्धि, अल्प बुद्धि, जड़बुद्धि/Moron, Imbecile, Idiot' whereas the petitioner answered '60-70 मन्दबुद्धिता', which is not right.

In this regard, Court takes note of a judgment of Aniruddh Narayan Shukla (supra), wherein certain relaxations were granted in regard to range of IQ. However, present answer would not fall within said relaxation. Therefore, on re-evaluation, no marks could be given to said answer.

In Question No. 68, the petitioner has answered 'आर्मस्ट्रांक' whereas the correct answer would be 'आर्मस्ट्रांग/ एच. ई. आर्मस्ट्रांग'. Though the spelling is wrong, still it can be considered to be a minor mistake and as such one mark could be granted, but still it would be  $65+1=66$  i.e. she would still be one mark less than the cut off. Therefore, this writ petition is accordingly dismissed.

Writ Petition No. 12692 of 2020, Archana Yadav Vs. State of UP & Ors.

In the present case petitioner initially got 63 marks and subsequent to re-evaluation, she got 64 marks, as such she was required at least 3 marks to qualify.

In this writ petition a dispute arose only in regard to Question Nos. 17,52,59,63,74,106.

According to State in regard to Question Nos. 59 and 74, petitioner was awarded one mark each i.e.  $63+2=65$ .

So far as Question No.17 is concerned, petitioner has answered '71 कम

(मन्दबुद्धिता)', whereas the correct answer would be 'जड़बुद्धि, मूढ़, मूर्ख/81-90, 80-89, 90 से कम सभी I.Q. वर्ग/मूर्ख, मूढ़, जड़/मन्दबुद्धि, अल्प बुद्धि, जड़बुद्धि/Moron, Imbecile, Idiot', therefore, petitioner has mentioned a wrong answer.

In this regard, Court takes note of a judgment of Aniruddh Narayan Shukla (supra), wherein certain exemptions were granted in regard to range of IQ. However, the present case would not fall within said exemption. Therefore, on re-evaluation, no marks were rightly given to said answer.

As regards Question No.52, petitioner has answered बालिका whereas the correct answer would be बालिका: Therefore, on re-evaluation, no marks has been given since बालिका is a singular form (एकवचन) whereas बालिका: is a plural form (बहुवचन)

In Question No.63 petitioner has answered "भूतकाल" whereas the correct answer would be 'सन्देहवाचक वाक्य / सरल वाक्य/साधारण वाक्य / संदेहबोधक वाक्य/अनिश्चय वाचक / संदिग्ध भूतकाल'. Therefore, petitioner has mentioned only 'भूतकाल' which is not sufficient as per the requirement of question, therefore, on re-revaluation, no marks was given.

In Question No.106 petitioner has answered 'सिरा' whereas the correct answer would be 'फुफ्फुस शिरा / पल्मोनरी शिरा'. Therefore, petitioner has neither specified फुफ्फुस nor पल्मोनरी, which could not be a complete answer, hence on re-evaluation, no marks could be given to said answer.

In these circumstances, petitioner was awarded  $63+2=65$  marks. However, Question No.58 was also re-evaluated,

whereof correct answer was 'बहुत्वा'. However, petitioner has answered 'विस्मयो नहि कर्तव्यो बहुरा बन्धुग', which is not a right answer, therefore, 1 number which was earlier granted to said question was rightly deducted, accordingly, she got 64 marks i.e. less than the cut off marks. Therefore, this writ petition is accordingly dismissed.

Writ Petition No. 12467 of 2020,  
Sunil Kumar Vs. State of UP & Ors.

In the present case petitioner has initially got 62 marks before re-evaluation and subsequently his marks were increased to 66 on re-evaluation, as such petitioner still requires at least one mark to qualify.

In this writ petition a dispute arose only in regard to question number 37 and 98, however no instruction has been served by the State regarding these questions as petitioner had not filed any objections regarding aforementioned questions after the judgement of Aniruddh Narayan Shukla (supra), still court is considering the petitioner's grievance regarding these two questions (37,98).

So far as question number 37 is concerned, petitioner has answered दीर्घ सन्धि whereas the correct answer as per answer key would be वृद्धि सन्धि / स्वर सन्धि. Court takes note of Radha Devi (supra), wherein दीर्घ सन्धि was considered to be above correct answer of this question, hence one number could be granted to said answer.

In regard to question no.98, petitioner has answered मधुबुद्धिता(80-90), whereas the correct answer as per answer key was विकलांग/दिव्यांग बच्चो हेतु/ शारीरिक रूप से अक्षम/ विशिष्ट बालक/ पी०डब्लू०डी०/ निशक्त/अक्षम. The petitioner has

mentioned answer of question no.99 in the column of answer to question number 98, hence the answer of petitioner was absolutely incorrect, hence no mark should be given to petitioner regarding Question No. 98.

In these circumstances, petitioner got  $66+1=67$  marks which is cut off mark for this examination. The Court takes note that since State has not brought any details of revaluation in regard to the petitioner, therefore, it may be a case that above number may already being included in total marks, therefore in the interest of justice, case of the petitioner be re-examined by The Examination Regulatory Authority. This writ petition is accordingly disposed of.

Writ Petition No. 12419 of 2020,  
Jyot Singh vs. State of UP & Ors.

In the present case petitioner got 64 marks and on evaluation he got 66 marks, as such he was required at least 2 marks to qualify.

In this writ petition a dispute arose only in regard to Question Nos. 53, 56 and 132.

According to State in regard to Question Nos.56 and 82 petitioner was awarded one mark each

So far as Question No. 53 is concerned, the answer was (x-6) (x-3) or (x-3) (x-6). However, the petitioner has given the answer for the question as (x-3) (x-6) =x=6, x=3, therefore, petitioner has also added x=6, x=3 which was not required hence no marks was awarded.

As regard Question No. 132, petitioner has written two answers 36E and (मामा) का संबंध whereas the correct answer is

मामा/ रवि कमल का भांजा है/मामा-भांजा. Therefore on re-evaluation, no marks could be given to said answer.

In these circumstances, petitioner was awarded  $64+2=66$  marks i.e. less than the cut off marks. Therefore, this writ petition is accordingly dismissed.

Writ Petition No. 12629 of 2020 ,  
Anchal Sonkar Vs. State of U.P. & Ors.

In the present case petitioner got 54 marks and on re-evaluation, he got 57 marks, as such he was required at least 11 marks to qualify.

In this writ petition a dispute arose only in regard to Question Nos. 31, 33, 81, 84, 137, 83, 106 and 150.

According to State in regard to Question Nos. 31, 81, 84 and 137 petitioner was awarded one marks each i.e.  $54+4=58$ .

So far as Question No. 83 is concerned, petitioner has answered 'E36', whereas the correct answer is 36E, therefore, petitioner has reversed the answer, which is against the algorithm of question, therefore, on re-evaluation, no number was granted to said answer.

As regards Ques.No.106, petitioner has answered "पल्मोनरी" whereas the correct answer would be "फुफ्फुस शिरा/ पल्मोनरी शिरा/ Pulmonary vein". It being an incomplete answer, therefore, no number was granted to said answer.

So far as Ques.No.150 is concerned, petitioner has given two answers "पम्पास" and "प्रेयसी" whereas correct answer would be "पम्पास/पम्पाज". Therefore, during

reevaluation no number was granted as he had given more than 1 answer, one being incorrect.

In these circumstances, petitioner was awarded  $54+4=58$  marks. However, Question No. 54 was also re-evaluated, wherein the correct answer was 'अनीय प्रत्यय / अनीय'. However, the petitioner has answered 'इय प्रत्यय', which was not right, therefore, 1 number which was earlier granted to said question was rightly deducted, accordingly, he got 57 marks i.e. less than the cut off marks. Therefore, this writ petition is accordingly dismissed.

Writ Petition No. 13506 of 2020 ,  
Sonu Verma Vs. State of U.P. & Ors.

In the present case petitioner got 66 marks and on re-evaluation his marks remained same (66 marks), as such, still he was required at least one mark to qualify.

In this writ petition dispute is only in regard to Question Nos. 86 and 148 , however, no instruction has been served by the state regarding these questions as petitioner had not filed any objection regarding aforementioned questions, after the judgement of Aniruddh Narayan Shukla (supra), still Court is considering the petitioner's grievance regarding these two questions.

In regard to question number 86, petitioner has answered 'Bits के रूप में' whereas the correct answer would be 'बाइनरी फार्म/ 0 1 के रूप में/ बिट फार्म' The answer being in consonance with one of the correct answer, hence one number could be awarded to said answer.

In respect of question number 148, petitioner has answered अफ्रीका महाद्वीप,

whereas the correct answer as per answer key would be अफ्रीका/दक्षिण अफ्रीका, therefore, one mark could be granted.

In these circumstances, petitioner may be awarded 66+2=68 marks i.e. more than cut off marks. The Court takes note that since State has not brought any details of revaluation in regard to the petitioner, therefore, it may be a case that above marks already being included in total marks, therefore in the interest of justice, case of the petitioner be re-examined by The Examination Regulatory Authority to clear the position. This writ petition is accordingly disposed of with further observation that while re-examination, status of vacancies may also be taken note of.

Conclusion:

WRIT-A Nos.- 917 of 2021, 12467 of 2020 and 13506 of 2020 are disposed of.

WRIT-A Nos.-13075 of 2020, 12239 of 2020, 1628 of 2021, 12185 of 2020, 12418 of 2020, 14096 of 2020, 13564 of 2020, 12000 of 2021, 12692 of 2020, 12419 of 2020 and 12629 of 2020 are dismissed.

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(2025) 5 ILRA 1371

**ORIGINAL JURISDICTION  
CIVIL SIDE**

**DATED: ALLAHABAD 19.05.2025**

**BEFORE**

**THE HON'BLE J.J. MUNIR, J.**

Writ-A No. 18956 of 2022  
Connected with  
Writ-A No. 5771 of 2023

**Lavkush Tiwari & Ors. ...Petitioners**

**Versus**

**The State of U.P. & Ors. ...Respondents**

**Counsel for the Petitioners:**

Aditya Prakash Verma, Shailesh Verma

**Counsel for the Respondents:**

C.S.C.

**A. Service Law – UP Police Regulations – Reg. 396 – Village Police/Gram Prahari – Minimum wages as per the Police personnel claimed – Entitlement – Held, a Village Policeman is free to undertake any kind of business, trade or occupation and earn his livelihood out of it; and, still, he can very well discharge his duties as a Village Policeman. It is in this context that the honourarium, being paid to the Village Policeman or *Gram Prahari*, is to be judged on the test of reasonableness. We do not think that the *Gram Prahari* or Village Policemen are in any way subjected to any kind of bondage or forced labour, taking advantage of their position, emanating from the lack of employment opportunities – The petitioners are not entitled to a *mandamus*, ordering the St. Government to revise and enhance their honourarium or pay, by whatever name called, to bring it at par with the minimum pay scale earned by a Policeman. (Para 53 and 57)**

**B. Constitution of India, 1950 – Article 14 – Reasonable classification – Remuneration of Rs. 2500/- per month was being paid to Village Police – Constitutional validity on the touchstone of reasonableness was challenged – Held, this is not a whole time employment done by the incumbent as his source of livelihood – The remuneration of Rs. 2500/- per month in the present day may be far on the lower side, does not make it arbitrary, unreasonable or violative of Article 14 of the Constitution. (Para 53)**

**Writ petition disposed of. (E-1)**

**List of Cases cited:**