

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1899/2016

With

OA-2017/2016

OA-2122/2016

OA-2150/2016

OA-2163/2016

OA-2164/2016

Reserved on : 11.07.2016.

Pronounced on : 16.07.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (A)

OA-1899/2016

1. Raj Kumar Vaswan, 28 years
S/o Sh. Hem Prakash Vaswan,
R/o Vill + Post-Salempur, Teh.Shikarpur,
Dist. Bulandshahr, UP 203 001.
2. Rahul, 24 years
S/o Sh. Tejvir Singh,
R/o VPO Rampur (Kundal), Teh.Kharkhoda,
Dist. Sonapat, Haryana.
3. Rakesh Kumar Sharma, 26 years
S/o Sh. Ram Kumar Sharma,
R/o VPO Laliyana, Teh. Khekra, Dist. Baghpat,
UP-250 515.
4. Avinash Kumar, 24 years
S/o Sh. Nempal Singh,
R/o B-91, St No-2/5, West Nathu Colony,
Shahara, Delhi-93.
5. Vikash, 22 years
S/o Sh. Karan Singh,
R/o VPO-Rithal (Narwal), Dist. Rohtak,
Teh. Rohtak.
6. Vikas, 22 years
S/o Sh. Sadhu Ram,
R/o VPO-Kakrala, Teh. Mahendergarh,
Dist. Mahendergarh, Haryana.
7. Aditya, 24 years
S/o Sh. Ashok Kumar,
R/o VPO Bhainsrukalan, Teh. Sampla,

Dist. Rohtak, Haryana.

8. Rupender Singh, 21 years
S/o Sh. Dharamveer Singh,
R/o VPO Changroad, Teh.Charkhi Dadri,
Dist. Bhiwani, Haryana.
9. Mahesh Choudhary, 28 years
S/o Sh. Rameshwar Lal Siyak,
R/o VPO Ghana via Patoda, Teh.Laxmangarh,
Dist. Sikar, Rajasthan.
10. Dinesh, 24 years
S/o Sh. Satbir Singh,
R/o Village Kheda Jhanjrola,
PO-Sultan Pur, Dist. Gurgaon,
Teh. Farrukh Nagar, Haryana.
11. Nitin Kumar, 23 years
S/o Sh. Chander Veer Singh,
R/o D-17, St.No.10, Jagat Puri Extn.,
Delhi-110 093.
12. Sunny Kumar, 22 years
S/o Sh. Narender Singh,
R/o H.No. 125, Auchandi Road,
Bawana, Delhi-110 039.
13. Gaurav Dahiya, 25 years
S/o Sh. Bijender Singh,
R/o B-6/234, Sec-3, Rohini,
Delhi-110 085.
14. Ashish Kumar, 26 years
S/o Sh. Balwan Singh,
R/o E-64 C/8, E-Block, Phase-V,
Aya Nagar Extn., New Delhi-110 047.
15. Krishan Kumar, 21 years
S/o Sh. Ajab Singh,
R/o Vill. Lahchoda, Post-Rataul,
Dist. Baghpat, UP-250 101.
16. Mohit Mann, 24 years
S/o Sh. Jagdish Mann,
R/o H.No. 123, Vill. Hamid Pur,
Delhi-36.
17. Pardeep Dahiya, 28 years
S/o Sh. Jagbir Singh,
R/o 6/11, Gali No.1, Jhori Nagar,
Linepar Bhadurgarh.

18. Rohit, 26 years
S/o Sh. Rajpal,
R/o H.No. 242, Vill. Barwala,
Delhi-110 039.
19. Anuj Dhama, 22 years
S/o Sh. Omprakash Dhama,
R/o Patti Aurangabad (Shekhpura),
Near Krishna Market, Khekra,
Baghpat, UP-250 101.
20. Kamaldeep, 24 years
S/o Sh. Pariwar Singh,
R/o VPO Atail, Teh.Sampla,
Dist. Rohtak, Haryana.
21. Sanjeet, 24 years
S/o Sh. Mahabir,
R/o VPO Gandhra, Teh. Sampla,
Dist. Rohtak, Haryana.
22. Gaurav Kaushik, 25 years
S/o Sh. Dayanand Kaushik,
R/o D-3/18, Kanwar Singh Nagar,
Nangloi, Delhi-41.
23. Abhishek, 22 years
S/o Sh. Raj Singh,
R/o VPO Jatheri, Teh. Rai, Dist.Sonipat,
Haryana-131 029.
24. Anchal Kumar Pathak, 27 years
S/o Sh. Ramesh Kumar Pathak,
R/o 2533, Gali No.12, Hanuman Mandir Marg,
Wazirabad Village, Delhi-110084.
25. Karan, 23 years
S/o Sh. Narender Kumar,
R/o RZ-3, Ashok Park, West Sagarpur,
New Delhi-46.
26. Deepak, 21 years
S/o Sh. Vinod Kumar,
R/o B-10, Police Colony, Bhajanpura,
Delhi-110 053.
27. Tarun Yadav,
S/o Sh. Bhim Rao Yada,
R/o E-1 (Ground Floor), Avantika,
Sector-1, Rohini, Delhi-110085.

.... Applicants

OA-2017/2016

Sarvan Kumar, 25 years
S/o Sh. Vijay Prasad Gupta,
R/o AT-Pachakathiya, PO+PS-
Shahkund, Dist. Bhagalpur, Bihar-813 108. Applicant

OA-2122/2016

Yogesh Kumar, 24 years
S/o Sh. Jai Pal Singh,
R/o C-166, LIG Flats,
East of Loni Road,
Shahdara, Delhi-110093. Applicant

OA-2150/2016

Lalit Kumar, 22 years
S/o Sh. Ashok Kumar,
R/o Village Balawas Jamapur,
P.O.-Boria Kamalpur, Distt. Rewari,
Haryana-123 401. Applicant

OA-2163/2016

Vinay Kumar,
S/o Sh. Rajpal Singh,
R/o Vill. Rajawas, PO Mandola,
Tehsil & Distt. Mahendergarh,
Haryana-123029. Applicant

OA-2164/2016

Mohd. Pankaj Khan, 21 years
S/o Sh. Mohd. Issa,
R/o Lakhnaka Road, Near Canal Hathin,
Near Mewat Modal School,
Distt. Palwal (Haryana). Applicant

Versus

1. Commissioner of Police,
PHQ MSO Building,
IP Estate, New Delhi.
2. The Deputy Commissioner of Police
(Recruitment Cell)
New Police Lines,
Kingsway Camp, Delhi.
3. Deputy Commissioner of Police (Establishment),
PHQ MSO Building,
IP Estate, New Delhi. Respondents
in all the cases.

Present : Sh. Ajesh Luthra, counsel for applicants in all the cases.
Sh. Amit Anand, counsel for respondents in all the cases.

O R D E R

Mr. Shekhar Agarwal, Member (A)

The issue involved in all these OAs is the same. Pleadings are complete only in OA-1899/2016. However, both sides agreed that all the OAs can be disposed of without waiting for completion of pleadings on the basis of pleadings of OA-1899/2016. Accordingly, all of them are being disposed of by this common order.

2. The respondents issued an advertisement in February, 2013 for filling up 142 vacancies of Head Constable (AWO/TPO) from open market. Another advertisement was subsequently issued by which the number of vacancies was revised to 475 with a further stipulation that the number of vacancies may undergo a change. The applicants applied for these posts and were asked to undergo physical endurance test in February, 2014. They successfully cleared the same. Written examination was conducted in March, 2014. Result of the selection was declared in May, 2014 in which 2453 candidates qualified including the applicants herein. Thereafter, trade test was conducted in August, 2014 in which also the applicants qualified. In October, 2014 a type test was conducted. Final result was declared in December, 2014 in which the applicants along with others were declared selected. Their police verification and medical examination was conducted between February and April, 2015. According to the applicants, they were informed in July, 2015 that they would be asked to join by end of September, 2015. However, on 30.09.2015, the respondents issued an additional list of those 247 candidates who they said had qualified in the written test. A revised final result was declared by the impugned

order 16.05.2016 in which the names of the applicants did not figure. They submitted a representation on 21.05.2016. However, apprehending that the respondents may appoint the candidates selected in the revised result and fill up all the posts, the applicants have filed this O.A. seeking the following relief:-

“(a) call for the records of the case.

(b) quash and set aside the impugned revised result published on 16/05/2016 (Annexure A/1).

(c) direct the respondents to further consider and appoint the applicants to the post of Head Constable (AWO/TPO) with all consequential benefits.

(d) for giving effect to prayers made above, any other appropriate direction (s) as deemed fit may also be passed against the respondents.

(e) award costs of the proceedings.”

By our interim directions posts have been reserved for applicants.

3. In their reply, the respondents have submitted that while the codal formalities for provisionally selected candidates was under way, a representation was received by them in April, 2015 in which it was alleged that some questions of the written test had been wrongly evaluated. The respondents sought comments from the paper setter regarding the same. On examining the issue further they decided that the entire result may undergo a change because of re-evaluation of answer sheets of the written test. Therefore, they did not issue offer of appointment to any candidate earlier selected for these posts. As was done in similar cases in recruitment pertaining to Constables, the respondents constituted an Expert Committee to examine whether there was any discrepancy in the evaluation and whether the answer sheets needed to be re-evaluated. The Committee submitted its report intimating that 06 questions of the written test needed to be cancelled and declared null and for 03 questions the correct answer was different from that given in the answer key. As per recommendation of the Expert Committee,

answer sheet of the written examination of each candidate was re-evaluated. On re-evaluation of answer sheets, 247 additional candidates were called for trade test in terms of the Standing Order of Delhi Police No. 223/2010. Thereafter, these additional candidates were subjected to trade test and typing test. Further, 318 candidates, who had earlier been declared qualified for trade test, were found to have not qualified in re-evaluation. Thereafter, the entire selection process was completed and on that basis revised final result was declared on 16.05.2016. It was found that out of 396 candidates selected earlier, 53 candidates were not figuring in the revised merit list. A total of 376 candidates were found to be making the grade in the main list and 15 candidates were placed in the additional list.

4. The applicants have challenged not only the findings of the Expert Committee constituted by the respondents but also its composition. They have asserted that the Expert Committee comprised of only 03 police officers. It neither had any subject expert nor any academician nor any person who could be considered as an authority. The findings of such a Committee cannot be relied upon. The applicants have further argued that their selection had reached final stages as only appointment letters were to be issued. This stage was reached after long and drawn out process of selection, which commenced in February, 2013 and lasted more than 2 ½ years. Some of the applicants in preparation for joining the new assignments had resigned from their previous jobs. Some other applicants during this period of 2 ½ years have become over age for applying for other posts. Thus, applicants have been put to irreparable loss due to this belated action of the respondents.

5. Some of the findings of the Committee have also been challenged by the respondents. The Committee has given findings on 09 questions. A summary of

the same is available at page-56 of the reply of the respondents. The applicants have challenged findings regarding 06 of these questions. Since the applicants came to know about these findings only after the reply had been filed by the respondents, challenge to them has been made in the rejoinder by the applicants.

6. The applicants have stated that Question No. 55 in Set-C reads as follows:-

“Who among the following was 10th President of India?

- A) Giani Zail Singh
- B) Pranab Mukherjee
- C) Neelam Sanjeeva Reddy
- D) R. Venkataraman”

They had answered ‘A’ as the correct option. In the pre-revised answer key, the respondents had also taken this as the right answer since Giani Zail Singh was actually the 10th President although he was Acting President. However, now the Expert Committee has cancelled this question on the ground that 10th President of India was Sh. K.R. Narayanan and since this option was not available in any of the 04 choices given to the candidates, the question deserves to be cancelled. Learned counsel for the applicants argued that the candidates were required to choose the correct option only from the choices given. Since Sh. K.R. Narayanan was not an option, candidates had rightly assumed that the correct answer would be Sh. Giani Zail Singh even though he was only Acting President. It would, therefore, be unfair to cancel this question and not give any benefit to the applicants, who had rightly answered the questions on the basis of options given.

7. Next the applicants have challenged the findings of the Committee regarding Question No. 59 of Set-C, which reads as follows:-

“In which year was the land acquisition act passed?

- A) 2000
- B) 2013
- C) 2014
- D) 1894"

7.1 The respondents had initially taken option 'C' as the right answer but later on revised it to option 'D. The reasons recorded by the Expert Committee are as follows:-

"Land Acquisition Act was passed in the year 1894. Another Act was passed in the year 2013, which was named "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Hence, the correct answer is 1894."

7.2 The applicants have submitted that the 2013 Act was popularly called the Land Acquisition Act. Moreover, the Land Acquisition Act was first passed in 1870 as Act No.X of 1870 passed by the Governor General of India. They have even attached a copy of this. The applicants have submitted that the Land Acquisition Act, 1870 was repealed by an Act of 1894. It was further repealed by the 2013 Act. As such, this question deserves to be cancelled.

8. Next, the applicants have challenged the Committee's findings regarding Question No. 65 in Set-C. The aforesaid question reads as follows:-

"Find the odd one out

- A) Pear
- B) Apple
- C) Litchi
- D) Orange"

The Expert Committee has cancelled this question because they felt that more than one character answer was possible. Thus, orange was possible as correct answer because it was the only citrus fruit whereas litchi was also possible as correct answer because it was the only fruit with a single seed. The applicants' contention is that in various other competitive examinations, such as, Allahabad Bank Clerical Examination, 2009 (Question No. 7), Bank PO Exam,

2003 and Bank of PO Exam, 2004 the correct answer to this question has been taken to be 'orange', being the only citrus fruit. Thus, the respondents herein should also have followed the same instead of cancelling the question.

8.1 Further, the applicants have challenged the findings of the Expert Committee on Qestion No. 22 of Set-C. It reads as follows:-

"If two pieces of ice are mutually pressed against each other then these pieces stick because

- A) at higher pressure the melting point of ice decreases.
- B) at higher pressure the melting point of ice increases.
- C) at higher pressure the melting point of ice firstly decreases and then increases.
- D) there exists no relation between the pressure and melting point of the ice."

8.2 The respondents had initially taken option 'C' as the correct answer but later on decided to cancel it on the recommendations of the Expert Committee. The Expert Committee has given the following reasons for cancelling the question :-

"The correct answer would be "with higher pressure the melting point of ice would decrerase. As a result, some ice at the joint would melt. The re-adjustment of water molecules would momentarily cause lowering of pressure due to which melting-point would increase and the water at the joint would convert to ice again, thus, making the two pieces of ice stick." Options 'A' & 'C' are both nearly correct options, but, not entirely correct either. Hence, the question needs to be cancelled."

8.3 The applicants have submitted that the Expert Committee has gone wrong in arriving at the aforesaid conclusion. They have relied on the text authored by Dr. K.L. Gomber and K.L. Gogia – Pradeep's Fundamental Physics (Class XI) as also on Wikipedia to say that this process is called 'Regelation' and, therefore, option-C should be regarded as the correct answer.

9. Next, the applicants have challenged the findings of the Expert Committee regarding Questions No. 14 and 68 of set-C. The same are reproduced as hereunder:-

“Q.14) Find a number such that when

15 is subtracted from 7 times the Number, the result is 10 more than Twice the number?

- A) 5
- B) 6
- C) 4
- D) 8

Q.14) एक संख्या के 7 गुने से 15 घटाने पर और उस संख्या के 2 गुने में 10 जोड़ने पर जो परिणाम आएगा वो है:

- A) 5
- B) 6
- C) 4
- D) 8

Q.68) Pointing towards a boy, Veena said, “He is the son of my grandfather”. How is that boy related to Veena?

- Uncle
- Brother
- Cousin
- None of these

Q.68) एक लड़के का ओर इंगित हुए हुए वीना ने कहा, "वह मेरे दादा के इकलौते बेटे का बेटा है". वीना उस लड़के से कैसे सम्बंधित है ?

- A) चाचा
- B) भाई
- C) चचेरा
- D) इनमे से कोई नहीं

9.1 The Expert Committee has recommended that English and Hindi versions of these questions do not match. Hence, they deserve to be cancelled. The applicants have submitted that in the instructions given to the candidates on the first page of the question booklet itself following is mentioned:-

“Note: In case of variation of any kind in the English and Hindi versions of any question(s), English version will be considered as final.”

10. Learned counsel for the applicants argued that the respondents had themselves stipulated that in case of any variation of any kind in the English and Hindi version of any questions English version will be considered as final. Therefore, instead of cancelling the question, the respondents should have

relied on the English version and marked the question accordingly. Instead of that they have disobeyed their own instructions and cancelled the question. This amounted to changing the Rules of the game midway through the examination process, which was impermissible under law. In this regard, the applicants have relied on the judgment of Hon'ble Supreme Court in the case of **K. Manjusree Vs. State of A.P. and Anr.**, (Civil Appeal No. 1313 of 2008 (Arising out of SLP (C) No. 18330/2006) dated 15.02.2008 in which the following has been laid down:-

"28. In *Maharashtra State Road Transport Corporation v. MANU/SC/0737/2001 : Rajendra Bhimrao Mandve (2002)ILLJ 819SC*, this Court observed that "the rules of the game, meaning thereby that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced." In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game has been played and the results of the game were being awaited. That is unacceptable and impermissible."

10.1 Learned counsel for the applicants has also relied on the judgment of Co-ordinate Bench of this Tribunal in OA-1677/2014 (**Naveen Kumar & Ors. Vs. M/o Railways & Ors.**) dated 05.05.2015 in which it has been stated that in the interest of fairness and transparency, the respondents themselves should have published the answer key on their website as well as supplied copies of OMR sheets to the applicants therein. He submitted that the examination conducted by the respondents was lacking in transparency inasmuch as they did not make known the answer key to the candidates. Further, relying on judgment of Hon'ble Supreme Court in the case of **Rajesh Kumar & Ors. Vs. State of Bihar & Ors.**, (Civil Appeal Nos. 2525-2516 of 2013) dated 13.03.2013, learned counsel asserted that if the model answer key itself was wrong then the whole examination process gets vitiated.

11. The respondents have disputed the assertions of the applicant regarding composition and the findings of the Committee. They argued that the entire selection process had been conducted departmentally. Even the question paper setter was a police officer. The Committee comprised of officers, who were not only senior to the paper setter but were also distinguished officers. Further, they asserted that it was not necessary for them to form a Committee comprising of academicians or special experts as this was nowhere prescribed in the rules. In a similar case regarding recruitment of Constable Executives, on the directions of this Tribunal they had constituted Committee of police officers only.

11.1 As regards the findings of the Committee the respondents have stated that as far as question No. 55 of Set-C is concerned, the question asked was who was the 10th President of India. The candidates were required to name the 10th President of India. A simple google search would reveal that the 10th President of India was Sh. K.R. Narayan. However, since his name did not figure in the 04 options given to the applicants, the Committee had rightly recommended that this question should be cancelled.

11.2 Regarding Question No. 59 of Set-C the Committee has opined that the Land Acquisition Act was passed in the year 1894. The Act passed in 2013 was for fair compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement of affected parties. Hence, the correct answer to the question was 1894. The respondents have also produced at the time of hearing a document to show that the 1894 Act was called Act No.1 of 1894. Hence, according to them, the Committee has rightly recommended that the correct answer was 1894. Hence, option-D should be taken to be correct.

11.3 Regarding Question No. 65 the Committee has given reasons why both orange and litchi can be regarded as correct answers, one being the only citrus fruit in the lot and the other being the only single seed fruit in the lot. The applicants' counsel argument that orange be regarded as correct answer as has been done in some other competitive examinations cannot be accepted.

11.4 As far as Question No. 22 of Set-C was concerned, the Committee found that two answers were nearly correct and hence recommended cancellation of the question. Detailed reasons have been given for doing so, which have been reproduced in the earlier part of the order.

11.5 As far as Question No. 68 and 14 are concerned in which the Committee had found mismatch in the English and Hindi versions, the respondents argued that a mere reading of these questions would reveal that question asked in English versions was different from the question asked in the Hindi version. The applicants have not disputed that there was variation. They have, however, stated that as per instructions given in the first page of the booklet itself, English version should have been relied upon. By not doing so, the respondents have changed the rules of the game midway and were, therefore, hit by directions of Hon'ble Supreme Court in the case of **K. Manjusree** (supra). The respondents argued that they have not changed the Scheme of the Examination, which was the issue in **K. Manjusree's** case (supra). Hence, it cannot be said that they were going against the directions of Hon'ble Supreme Court as given in the aforesaid case. In their support, they relied on a judgment of Hon'ble High Court of Madras in the case of **D. Shylaja Vs. The Secretary to Government** (Writ Petition No. 14587/2004) dated 15.06.2004 in which finding a difference in English and Tamil versions, the Hon'ble High Court had upheld the decision of the university to cancel the questions after noting that from the answer sheets, it would not

have been possible to decipher as to which candidate had attempted the English version of the question and which candidate had attempted Tamil version. The respondents contended that the instant case was squarely covered by the aforesaid judgment.

12. We have heard both sides and have perused the material on record. In our opinion, following two issues arise for our consideration:-

(i) Whether the respondents were justified in ordering re-evaluation of answer sheets of the written test?

(ii) Whether the findings of the Expert Committee and the re-evaluation done on the basis of the same leading to preparation of revised merit list are acceptable or not?

12.1 As far as the first issue is concerned, it is clear from the records of the respondents that they received representation from certain candidates that there were discrepancies in the answer key as well as evaluation of certain questions in the written test. Finding some substance in the complaint, they sought comments from the paper setter and thereafter examined the issue in details. They then decided to constitute a Committee of Senior Police Officers to examine whether there were discrepancies in certain questions asked from the candidates in the written test. The Committee found that 06 of the questions needed to be cancelled and in 03 questions the answer given in the answer key needed to be changed. We find that the applicants have disputed findings of the Committee regarding 06 of the 09 questions. They have not questioned the findings of the Committee in other 03 questions. In one such questions (Question No. 52 of the Set-C) the paper setter answer according to which the model answer key was set was option-B whereas the Committee found the correct answer to be option-C. Similarly, for Question No. 19, the Committee found the

correct answer to be Option-B instead option-A given in the model answer key by the paper setter. Again for Question No.29 while the model key had suggested option-D as the answer whereas the Committee had recommended cancellation of the question finding none of the options given to be correct. These findings have not been questioned by the applicants, meaning thereby that the applicants have themselves accepted that atleast in these three question there were discrepancies. It cannot be disputed that even if there was deficiency in one question then re-evaluation would alter the merit list. Herein discrepancies in at least 03 questions have been accepted by the applicants themselves leading to the conclusion that re-evaluation was definitely warranted. Hence, the respondents cannot be faulted for not acting on the earlier merit list and ordering re-evaluation of the answer sheets of the written test to prepare a revised merit list. This is irrespective of the findings given by the Committee in the remaining 06 questions.

12.2 As far as the findings of the Committee are concerned, we are not convinced by the arguments advanced by the applicants to dispute the same. Thus, for Question No. 55, the applicants have contended that Sh. Giani Zail Singh was the right answer as he was the 10th President of India even though he was only "Acting". We do not know when Sh. Giani Zail Singh acted as President of India as he was the Home Minister of India and it is the Vice-President who acts as President in absence of the President. In any case, we agree with the respondents that the 10th President of India was Sh. K.R. Narayanan and, therefore, the findings of the Committee are, in our opinion, correct. Similarly, for Question No.59, we are not convinced by the argument of the applicants that 2013 be taken as the right answer. It is common knowledge that the Land Acquisition Act was passed in 1894. The applicants' contention that an Act was also passed in 1870 cannot be accepted because 1870 was not one of the

options given in the question. Hence, Committee is right when it has opined that Option-D i.e. 1894 be taken as the right answer. Again, we agree with the logic advanced by the Committee that for Question No. 65 both orange and litchi can be regarded as correct answer. We are not convinced by the argument of the applicants that since in several other competitive examinations orange has been taken as the right answer in this question, the same should be followed here. Candidates appearing in this test may or may not be aware of what was done in other competitive examinations. They were not expected to answer the question on the basis of practice followed in other selections.

12.3 Next the applicants have questioned the findings of the Committee regarding Question No. 22. They have relied on the text authored by Dr. K.L. Gomber and K.L. Gogia, the extracts of which they have annexed with their annexures. We have perused the material presented. According to this, the process of melting under pressure and then reprocessing is called regelation. However, the material presented does not in any way lead us to conclude what the right answer out of the 04 options given in Question No.22 would be. The finding of the Committee that two answers were nearly correct appears to be justified and is backed by sound reasoning reproduced in earlier part of the judgment.

12.4 Lastly, the applicants have disputed the findings of the Committee regarding Question Nos. 68 and 14 in which there was mis-match in English and Hindi versions. The applicants have argued that in terms of the Instructions given in the question booklet English version should have prevailed in the event of variation between two versions. However, on examining this issue, we find that this was not a case of variation. Rather the question asked in English version was entirely different from the question asked in Hindi version. Thus, in Question No.

68 in the English version, the relationship of the boy to the Veena has been asked for whereas in the Hindi version relationship of Veena to the boy has been asked. Similar is the situation in Question No.14 which becomes obvious by mere reading of the same. Under these circumstances, we are of the opinion that the Committee has rightly recommended that these 02 questions be cancelled. If applicants' contention is accepted and English version is allowed to prevail, it would be grossly unfair to those applicants who attempted questions in Hindi. This is because they were not expected to read the English version and their answer would have been marked wrong even if they had answered the question correctly as per the Hindi version.

12.5 The contention of the applicants that experts and academicians should have been included in the Committee has also been refuted by the respondents by saying that they had conducted the entire process departmentally and even the paper setter was a police officer. In any case, in our opinion, the questions asked were such as, would require only general knowledge and power of reasoning rather than academic knowledge of any particular subject. Thus, we do not find anything wrong with the composition of the Committee.

13. The applicants have also submitted that the selection process conducted by the respondents lacked transparency inasmuch the answer key was not published and the objections to the same not invited. We agree with the applicants' counsel that strictly speaking the correct process would have been to publish proposed answer key, invite objections on the same and finalize the model answer key after considering the objections. To that extent, the selection process lacked transparency. However, this does not help the applicants in any

way as the process has been same for all candidates and the applicants were not claiming cancellation of the exam on this ground.

14. On the basis of above analysis, we come to the conclusion that the respondents cannot be faulted for not acting on the earlier merit list and preparing a revised merit list after re-evaluating the answer sheets of the written exam on the basis of recommendations of the Committee. Thus, the relief asked for by the applicants cannot be granted.

15. At the same time, we cannot over look the fact that the applicants had been subjected to a long and drawn out process of selection lasting 2 ½ years and were on the verge of being appointed when the respondents decided to prepare a revised merit list. As per respondents' own submission 53 persons, who figured in the earlier merit list, have been ousted in the revised list. Learned counsel for the applicants stated that many of the applicants have suffered as they had resigned from their previous jobs in preparation to join their new assignments. Many others have become over age to be appointed elsewhere.

16. We also notice that earlier respondents had advertised 142 vacancies of the post of Head Constable (AWO/TPO). Subsequently, this number was increased to 475 with further stipulation that number of vacancies may undergo a change. Under these circumstances, we dispose of this O.A. with a direction to the respondents to consider whether additional vacancies are available to appoint the applicants as well in addition to those figuring in the revised merit list. We are conscious of the fact that there may be some other candidates in between those figuring in the revised merit list and the applicants herein. That number is not known to us. Such candidates would also have to be appointed. Let the respondents examine and see whether without violating the merit of the

selection process the applicants can be accommodated. This will, of course, be subject to availability of vacancies. The respondents may do so within next 08 weeks from the date of receipt of a certified copy of this order. No costs.

17. A copy of this order be placed in each case files.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/