



2026:AHC:165174

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 6792 of 2019

Hitesh Kumar And 4 Others

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Siddharth Khare
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

Sl. No. 113

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Shri Sidharth Khare, learned counsel for the petitioner and Shri Rajiv Gupta, learned Additional Chief Standing Counsel for the State.

2. The instant petition has been filed with the following prayers:

"(a) Issue a writ, order or direction in the nature of mandamus commanding the respondent authorities to declare option 'C' to the question No. 22 of question paper set-56 distributed on 19.6.2018 in the first shift of examination to be correct option instead of option 'B' and accordingly grant marks to the petitioners'.

(b) Issue a writ, order or direction in the nature of mandamus commanding the respondent authorities to declare all the options to the question no. 85 of question paper set-56 distributed on 19.6.2018 in the first shift of examination to be invalid/wrong and grant full marks to the petitioners'.

(c) Issue a writ, order or direction in the nature of mandamus commanding the respondent authorities to revise the final results of the petitioners in accordance with correction made by them pursuant to above mentioned prayer Nos. (a) and (b) and then declare the petitioners qualified and may send them for further follow up action for selection on the post of Constable within a time stipulated by this Hon'ble Court."

3. Learned counsel for the petitioners submits that, pursuant to an advertisement dated 14.1.2018 which was advertised for the post of Constable in Civil Police and PAC, the petitioners had appeared in the examination on 19.6.2018, wherein they were given the question paper set-56 and the answers to the aforesaid question were found to be incorrect in the answer key published by the respondents. Learned counsel for the petitioner submits that the correct answer to question number 22 is option C, and all the answers to question number 85 were invalid and wrong. The learned counsel for the petitioner further submits that the identical controversy with regard to the same recruitment, was dealt with by a Coordinate Bench of Lucknow Bench of this court in Writ-A No. 14066 of 2019 (Amit Kumar Gupta and 11 Others vs. State of U.P. through Additional Chief Secretary Home, Lucknow and Others) as well as in Writ-A No. 29956 of 2019 (Kaushal Sahani and 4 Others vs. State of U.P. and Others). In the case of Amit Kumar Gupta, the Coordinate Bench of Lucknow Bench of this Court has passed the following order on 10.10.2025:

"(1) Heard Mr.Sudeep Seth, learned Senior Counsel assisted by Mr. Amit Kumar Singh Bhadauriya and Mr. Rakesh Kumar Yadav, learned counsel for petitioners and Mr. S.M.Singh Royekwar, learned Additional Advocate General assisted by Mr.Sandeep Sharma, learned counsel for opposite parties.

(2) Petition has been filed challenging Answer Key of Test Booklet Series of U.P. Police, 19th June, 2018, Shift - 1 dated 05.12.2018 issued by U.P. Police Recruitment & Promotion Board for the purposes of recruitment on the post of Constable Civil Police and Constable Provincial Armed Constabulary (PAC). Also under challenge is final select list/result dated 18.02.2019. Prayers with regard to revision of result and for grant of marks to petitioners for questions indicated in prayers III & IV have also been sought. Prayer with regard to redrawing of the select list of the said post on the basis of correct marks obtained in the written examination has also been sought alongwith their consideration for appointment.

(3) Earlier this Court on 02.07.2025 had passed the following order:-

"1. Heard Mr. Sudeep Seth, learned Senior Counsel assisted by Mr. Amit Kr. Singh Bhadauriya and Mr. Rakesh Kumar Yadav, learned counsel for petitioners and learned State Counsel for opposite parties no.1 to 4.

2. As per order-sheet, notices were issued earlier to opposite parties no.5 to 11 alongwith dasti summon and affidavit of service was filed. Subsequently vide order dated 17.01.2024, directions was issued for publication of notice of this Court in two daily newspapers having wide circulation in State of U.P. In pursuance thereof, office report has been submitted on 06.02.2024 that publication was effected in four newspapers having wide circulation. However despite wide publication of notice, no one has put in appearance on behalf of opposite parties no.5 to 11 and subsequently vide order dated 15.04.2024, notice has been deemed sufficient upon opposite parties no.5 to 11.

3. Petition has been filed challenging Answer Key of Text Booklet Series of Recruitment pertaining to U.P. Police Constable Civil Police and Constable PAC of the advertisement dated 05.12.2018. Further prayer for quashing of final select list dated 18.02.2019 has been sought alongwith a writ of mandamus to revise and grant marks to the petitioners for question indicated in prayers no.III and IV. Certain other concomitant prayers have also been made.

4. Earlier this petition was dismissed vide judgment and order dated 27.11.2019, which was challenged in Special Appeal No.1 of 2020 which was allowed by means of judgment and order dated 28.01.2023 remanding the matter for decision afresh.

5. It is the case of petitioners that the Provisional Answer Key pertaining to questions no.9 and 100 of Text Booklet Series

No.52 have been wrongly answered. It is also submitted that objections to the Provisional Answer Key was submitted by petitioners but such objections have not been dealt with by the opposite parties who thereafter finalized the Answer Key due to which petitioners stood disqualified. Learned counsel for petitioners has adverted to Annexure No.2 to indicate that the Test consisted of 150 objective type questions carrying two marks each for correct answer with 0.5 marks being deducted for each wrong answer. Reference has also been made to paragraphs 27 and 28 of the writ petition to indicate cut off marks for OBC and S.C. category with the marks obtained by petitioners also being indicated and it is submitted that in case the Answer Key to the aforesaid two questions is found to be incorrect, it could result in enhancement of at least 2.5 marks to each of the petitioners due to which they may stand selected.

6. So far as question no.9 is concerned, it pertained to the last ruler of Maurya dynasty with four options provided therein, question no.9 is as follows:

"Question No.9-

Who was the last ruler of the Maurya dynasty?

- (A) Ashoka
- (B) Bindusara
- (C) Brihadratha
- (D) Pushyamitra."

7. Similarly Question No.100 of the aforesaid Booklet Series was as follows alongwith options:

"Question No.100 -

Select the most appropriate option to solve the question ?

$$90\% \text{ of } 6 \times (24 - 8\% \text{ of } 4) \div 3 =$$

- (A) 18
- (B) 20
- (C) $11 \frac{1}{4}$

(D) 16"

8. *Learned counsel for petitioners has thereafter drawn attention to various books and journals some of which have been approved by N.C.E.R.T to submit that although the Answer Key pertaining to Question No.9 of Booklet Series 52 provides the correct Answer as (B) but the correct answer to the said Question in fact was (C). Similarly with regard to Question No.100, it has been submitted that the said question being mathematical in nature, was required to be solved using the Principle of B.O.D.M.A.S. which entails that correct answer of Question No.110 is not an option provided. It is therefore submitted that the Provisional Answer Key indicated incorrect options for the aforesaid two questions. He has also adverted to paragraph 5 of the rejoinder affidavit to submit that petitioners submitted their objections to the Provisional Answer Key online on 30.06.2018 with the scanned photograph also appended as R.A No.1. He submits that specific averments made in paragraph 5 of the rejoinder affidavit have not been rebutted in reply submitted by State to the rejoinder affidavit specifically in paragraph 9.*

9. *Learned counsel has thereafter adverted to judgment rendered by Co-ordinate Bench of this Court in the case of Rishabh Mishra & Ors. versus State of U.P. & Ors. in Writ Petition No.8056 (S/S) of 2020 to submit that in such a situation, it is settled law that such a dispute pertaining to correctness of the questions requires to be referred to an Expert Committee. Prayer therefore has been made for referring the aforesaid two Questions to an Expert Body.*

10. *Learned State counsel has refuted submissions advanced by learned counsel for petitioners with the submission that as per instruction received and contents of counter affidavit, no objections on behalf of petitioners were ever received pertaining to the Provisional Answer Key and that an Expert Body had been constituted for purposes of aforesaid*

recruitment which finalized the Answer Key after analyzing the objections which were filed against the Provisional Answer Key. He seeks time to bring on record the decision which was taken by the aforesaid constituted Expert Body pertaining to decision on objections received against the Provisional Answer Key particularly with regard to Questions No.9 and 100 of the Test Booklet Series 52.

11. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, particularly judgment and order dated 28.01.2023 rendered in Special Appeal No.1 of 2020, it is evident that the Special Appellate Court has clearly recorded in paragraph 11 of the judgment that the appellants (petitioners herein) had filed objections against the Provisional Answer Key pertaining to the answers of the said two Questions and that they were not informed about any decision taken in respect of their objections but were shown as qualified in written examinations whereafter they were issued Admit Cards for verification of documents and conducting physical standard test. All the appellants/ petitioners had participated in the aforesaid verification and physical test and were found successful. However their name did not find place in the final select list. The Division Bench has thereafter recorded a finding that cause of action accrued to appellants/petitioners only when they could not succeed in the selection process and therefore it cannot be said that writ petition was filed belatedly.

12. It is thus on record as per finding recorded in Special Appeal that the petitioners had in fact filed objections against the Provisional Answer Key pertaining to the aforesaid two Questions which were not addressed.

13. Some of Journals and Books adverted to in the writ petition have been brought on record with one of them by author namely Dr. K. Gopalan, Director of N.C.E.R.T which has adverted to the fact that the last Maurya King was Brihadratha

who was assassinated by his Commander -in-Chief. The said aspect is indicated at page 127 of the Writ Petition. Similarly in another book by author Sunil Kumar Singh which is also based on syllabus approved by N.C.E.R.T indicates the same aspect at page 133 of the Writ Petition. Certain other books and journals have also been indicated which also advert to the Answer that the last Mauryan Empire was Brihadratha indicated as option (C) in Answer Key and not Bindusara indicated as option (B) in the Answer Key.

14. The Question No.100 of Booklet Series 52 is however mathematical in nature and would require solving by application of principle of B.O.D.M.A.S.

15. A Coordinate Bench of this Court in the case of Rishabh Mishra (supra) has already dealt with such an aspect taking into account various judgments rendered by Hon'ble the Supreme Court on the aforesaid aspect namely Ran Vijay Singh V. State of U.P.; (2018)2 SCC 357, which enunciates that in such a situation where prima facie satisfaction is garnered by courts with regard to discrepancy or incorrectness of the Answers indicated in the Answer Key, reference is required to be made to an Expert Body.

16. Upon applicability of aforesaid judgment in the present facts and circumstances, particularly the finding recorded by Division Bench in Special Appeal that objections filed by petitioners were not addressed and the Provisional Answer Key was finalized without addressing such objections and looking into the aspect on various journals approved by N.C.E.R.T or as per syllabus of N.C.E.R.T, the aspect of correctness of Questions No.9 and 100 of Booklet Series No.52 would require consideration by an Expert Body.

17. In view thereof, it could be appropriate that the aforesaid two Questions are referred to the Vice-Chancellor, Lucknow University for constitution of an Expert Committee for testing

the correctness of Questions No.9 and 100 of Test Booklet Series No.52 which have been extracted herein above.

18. Senior Registrar of this Court is directed to submit a copy of this order alongwith a copy of petition to the Vice-Chancellor, Lucknow University for complying with the directions. Endeavour shall be made by the Vice-Chancellor, Lucknow University to constitute the aforesaid Expert Body within a period of three days from the date of receipt of this Order alongwith relevant documents. The Expert Body so constituted will endeavour to submit its report to the Vice-Chancellor within a period of ten days from its constitution whereafter such a report shall be produced through the Senior Registrar of this Court and be placed on record by next date of listing. The Expert Body in its report shall also indicate material which forms the basis of its assessment.

19. In terms of prayer made by learned State Counsel, concerned authority is also granted liberty to file a supplementary counter affidavit bringing on record the disposal of objections filed against the Provisional Answer Key pertaining to the aforesaid two Questions and indicating books and journals on which reliance was placed while deposing of such objections. 20. List this case in top ten category on 30.07.2025."

(4) In pursuance thereof, a report dated 25.07.2025 was submitted by the Expert Body of the Lucknow University which was taken on record and vide order dated 21.08.2025, time was granted to opposite parties to file their objections. Subsequently, since objections had not been filed, stop order was passed on 08.09.2025, but upon failure thereof to submit objections, vide order dated 18.09.2025, a further opportunity was granted to opposite parties and listing of this case today, i.e., 10.10.2025. It was also directed that in case no objections were filed to the report by next date of listing, opportunity to file objections will stand closed. Despite such orders having

been passed, no objections to the report have been filed till date.

(5) Learned counsel for opposite parties has further adverted to the written instructions dated 10.10.2025, which are taken on record, to submit that the examination was conducted with the setting up of question paper by examination body being Tata Consultancy Services which in its letter dated 10.10.2025 has indicated that since examination was conducted in the year 2018, relevant data has been archived and is no longer available but efforts can be made for its restoration for which 10-15 working are required. It is therefore submitted that at least two weeks further time may be granted for filing objections.

(6) It is evident that time has been granted to opposite parties thrice for filing objections to the report submitted by the Expert Body and opportunity for such objections being closed, it is relevant to notice that no application for recall of the order closing their opportunity to file objections has been filed till date.

(7) In view of the aforesaid, since opportunity to file objections has been closed, this Court does not find any cause to grant any further time for filing such objections.

(8) Considering the directions, which were issued by this Court on 02.07.2025, particularly with regard to question Nos.9 and 10 of Test Booklet Series No.52, report of the expert panel constituted by the Vice-Chancellor of Lucknow University in pursuance of directions issued by this Court on 02.07.2025 has been submitted and is on record. Relevant portion of the report is as follows:-

"Question No.9 is pertained to the last ruler of Mauryan dynasty. According to the available sources the last ruler of the Mauryan dynasty was Brihadratha.

References:

1. *Thapar, Romila (2013), The Past Before Us, Havard University Press. P. 296*

"Brihadratha Maurya the last Mauryan Emperor was killed in 185 BCE and power usurped by his general, Pushyamitra Shunga who then took over the throne and established the Shunga Empire."

2. *Lahiri, B. (1974) Indigenous States of Northern India (Circa 200 B.C. to 320 A.D.) Calcutta : University of Calcutta, pp.24-5*

"Bnabhatta's Harshacharita says that Pushyamitra, while parading the entire Mauryan Army before Brihadratha on the pretext of showing him the strength of the army, crushed his master."

3. *Pargiter, F. E (1913). The Purana Text of the Dynasties of the Kali Age. P.31*

4. *Sharma, R.S. (2017). India's Ancient Past. Published by Oxford University Press, New Delhi.*

"The Mauryan empire was finally destroyed by Pushyamitra Shunga in 185 B.C. He was a general of the last Maurya ruler Brihadratha. He is said (sic.) to have killed Brihadratha in public..."

5. *मुखर्जी, राधाकुमुद (2007) प्राचीन भारत राजमकल प्रकाशन प्रा०लि०, नई दिल्ली पृ 72*

"बृहद्रथ के सेनापति पुष्यमित्र ने उसे हटाकर शुंग वंश का राज्य स्थापित किया"

"Question No. 100 is a multiple choice question with four options. None of the four given options is a correct answer to the given question. The basis of this conclusion may be found in any good middle level textbook on mathematics, for example the textbook Ganita Prakash, a textbook of Mathematics for Grade 7 published by NCERT."

(9) *Considering the fact that report has been submitted by Expert Body of Lucknow University, there does not appear to be any occasion to take a stand contrary to the report which has been submitted by Head of Department of Mathematics and Astronomy, Lucknow University. A perusal of the aforesaid report clearly indicates the fact that answer with regard to question Nos.9 and 100 of Booklet Series No.52 has been wrongly indicated in the answer key.*

(10) *It is evident from a bare perusal of the report of Expert Body of Lucknow University that not only have the answers been indicated but detailed reasons have also been indicated for conclusion of Expert Body as well as books and journals on which reliance has been placed by the Expert Body.*

(11) *In view of the judgment rendered by Hon'ble Supreme Court in the case of Richal and others v. Rajasthan Public Service Commission and others [(2018) 8 SCC 81] as well as judgment by a co-ordinate Bench of this Court in the case of Gyanesh Kumar Jha v. State of U.P. and others, Writ- A No.62711 of 2015, it is directed that claim of petitioners for appointment on the posts in question after providing them full marks for aforesaid two questions shall not be denied only on the ground that there are no further vacancies available with regard to selection of the relevant Selection Year 2018. In case if need be, opposite parties shall consider creation of supernumerary posts for adjustment of petitioners for their appointment on the posts of Constable in the Civil Police/PAC.*

(12) *In view thereof, it is held that answer key of Test Booklet Series No.52 pertaining to question Nos.9 and 100 has been incorrectly indicated and therefore the said answer key to the said questions is hereby quashed by issuance of a Writ in the nature of Certiorari. Consequently, a further Writ in the nature of Mandamus is issued commanding opposite parties to grant full marks for aforesaid question Nos.9 and 100 of Test Booklet Series No. 52 to petitioners whose answers match those of the*

Expert Body. Re-drawing of the select list shall be done by opposite parties, expeditiously, within a period of two months from today. In case any of the petitioners are found to be coming within cut off marks, after re-drawing of the select list by providing them full marks for question Nos.9 and 100 of Test Booklet Series No. 52, their appointment shall be considered by the authority concerned within a period of two weeks thereafter. This order however may not affect the appointments which have already been made in pursuance of selection 2018 on the said post of Constables.

(13) Benefit of this order shall obviously be available only to petitioners who have approached this Court.

(14) With the aforesaid directions, petition succeeds and is allowed. Parties shall bear their own costs."

4. The only difference between the aforesaid judgment and the instant case is with regard to the different sets of question papers circulated to the petitioners therein. However, the questions are the same, but the question numbers differs due to the change of set of question papers.

5. In such view of the matter, since the controversy was with regard to the same questions as that of in the case of Amit Kumar Gupta, as well as Kaushal Sahani, the instant writ petition is also **allowed** in the same terms as that of judgement dated 30.10.2025 in Writ A No. 14066 of 2019 (Amit Kumar Gupta And 11 Ors Vs. State of U.P. Thru Addl. Chief Secy. Home, Lucknow And Ords).

6. It is also clarified that the time schedule which is given in the aforesaid judgment, may also be applicable in the present case.

(Anish Kumar Gupta,J.)

August 5, 2026

o.k.