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**(2010) 09 AHC CK 0519**

**Allahabad High Court**

**Case No:** None

Anurag Rai

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** Sept. 1, 2010

**Hon'ble Judges:** Dilip Gupta, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

Dilip Gupta, J.

The petitioner, who had appeared at the examination for selection to the post of Constable conducted by the U.P. Police Recruitment and Promotion Board, is aggrieved by his non-selection.

2. It is stated that the petitioner belongs to the General male category and has obtained 120.3874 marks but he was not selected. It is also the contention that the respondents have not awarded marks for four wrong questions in part 2 of the Question Paper and that the marking has not been done properly.

3. Learned Standing Counsel appearing for the respondents, on instructions, states that the petitioner obtained lesser marks than the last selected candidate in this category who had obtained 122.1855 marks and so the petitioner was not selected. He has further pointed out that the Board had taken a policy decision to award marks to all the candidates for these four wrong questions and candidates have been awarded the marks. Learned Standing Counsel also states that the examination was based on objective type of questions and the answers were given on OMR sheet and the marks have been awarded after checking from the OMR Scanner.

4. The allegations made in the petition that marks have not been properly awarded are very vague and since the answer books have been checked by the OMR Scanner, there is no scope for any mistake in the marks awarded to the petitioner. The

apprehension of the petitioner that marks have not been properly given is, therefore, without any basis. This apart, in the absence of any provision for revaluation of the answer books, it is not possible to issue any direction for revaluation of the answer books. The learned Standing Counsel has also pointed out that marks have been uniformly awarded to all the candidates for the wrong questions and that the petitioner was not selected as he obtained lesser marks than the last selected candidate in the category to which the petitioner belongs. In such circumstances, no relief can be granted to the petitioner.

5. In this connection reference may also be made to the judgment of the Supreme Court in [H.P. Public Service Commission Vs. Mukesh Thakur and Another](#), wherein it has been observed:

In view of the above, it was not permissible for the High Court to examine the question papers and answer sheets itself, particularly, when the Commission had assessed the inter se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for Respondent 1 only. It is a matter of chance that the High Court was examining the answer sheets relating to Law. Had it been other subjects like Physics, Chemistry and Mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court.... Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court should not generally direct revaluation.

6. The writ petition is, accordingly, dismissed.