

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

**W.P.Nos.36823, 36825, 36837, 36850, 36888, 36946, 37056,
37060, 37061, 37065, 37442, 37443, 37444, 37461, 37566,
37640, 37711, 37712, 38235, 38236 of 2014,
5858, 5924, 8413 and 19272 of 2015**

W.P.No.36823 of 2014

Between:

1. N.Jyothi Nirmala and another

.....Petitioners

And

1. The Regional Joint Director, Women Development
& Child Welfare Dept., Warangal Region, Warangal
and others

.... Respondents

DATE OF JUDGMENT PRONOUNCED: **11.04.2016.**

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the judgment? Yes / No
2. Whether the copies of judgment may be
marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes / No

*** HON'BLE SRI JUSTICE G. CHANDRAIAH**

AND

*** HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

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.... Respondents

! Counsel for petitioners : K.Sarath

**^ Counsel for Respondents : G.P. for Services-I for the States
of Telangana and Andhra
Pradesh**

< Gist:

> Head Note:

? Cases referred:

- 1) (1983) 4 SCC 309
- 2) 1993 (2) ALT 352
- 3) 1998 (3) ALT 40
- 4) (2005) 13 SCC 744
- 5) 2010(5) ALD 262 (DB)
- 6) (2005) 13 SCC 749
- 7) 1996 SCC Online AP 1204 = (1996) 3 SLR 492 (DB)
- 8) (2002) 6 SCC 562

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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COMMON ORDER: *(Per Hon'ble Sri Justice U.Durga Prasad Rao)*

In this batch of writ petitions, the petitioners assail the order dated 24.11.2014 passed by the learned Andhra Pradesh Administrative Tribunal, Hyderabad (for short "A.P.A.T"), in

O.A.Nos.8234 of 2013 and batch as being erroneous and pray to declare the action of the official respondents in preparing the selection list for the posts of Extension Officer Grade-II (Supervisor) in various Zones of Women Development & Child Welfare Department (for short "WD & CW Dept.") pursuant to Notification dated 02.07.2013 as illegal, arbitrary and for a consequential direction to the respondents to prepare fresh selection list after rectifying the mistakes in the key and publish the fresh key.

2) The facts in brief are as follows.

a) The petitioners are working as Anganwadi Workers from various dates in WD & CW Dept. While so, the Government issued Notification dated 02.07.2013 inviting applications for filling up 1741 vacancies of Extension Officer Grade—II (Supervisor) in WD & CW Dept. in various Zones. As per Notification, applications were invited from in-service Anganwadi Workers working in Integrated Child Development Service (ICDS) Projects and Mobile Creche Teachers working in WD & CW Dept. who passed SSC and completed 10 years of service as on 01.07.2013 and Coordinators/Instructors who passed 10th class and also completed 5 years of service in Anganwadi Training Centers in WD & CW Dept. and also contract Supervisors who are working ICDS projects.

b) Pursuant to the said Notification, the petitioners applied for and participated in the selection process. Thereafter the merit list was published on 31.10.2013 and later the select list was put up in the notice board on 12.11.2013.

c) The petitioners' case is that for the post of Extension Officer, Grade—II the process for selection is written test and the total marks are 50 consisting of 90 objective type questions carrying $\frac{1}{2}$ mark each. There was negative marking for each wrong answer i.e. $\frac{1}{8}$ th (0.125) mark will be deducted from the secured marks. The respondents published key on 01.11.2013.

d) The further case of the petitioners is that there are more than 10 wrongs in key and the official respondents did not call for any objections from the candidates before publishing the key and accordingly published results. Hence, the petitioners filed O.A.No.8234 of 2013 and batch before APAT. The grievance of the petitioners is that the Tribunal without considering the material placed before it dismissed the OAs. Questioning the common order passed in OAs. the present batch of writ petitions have been filed.

e) This Court while issuing Notice Before Admission granted interim order to the effect any decision that may be taken by the respondents in filling up the vacancies is subject to the result of the writ petition.”

f) The official respondents filed counters in W.P.Nos.37056, 37060 and 37640 of 2014 and contended that question paper was prepared by four Professors of Home Science College, Acharya N.G.Ranga Agricultural University, Hyderabad and before conducting the examination the topics/subjects were communicated to the candidates through Regional Joint Directors concerned and also posted on the website of the Department duly informing that questions will be selected from those topics. They also contended that it is not mandatory to call for objections from the candidates on the key. It is further contended that Tribunal after considering all the aspects and material placed before it only dismissed the OAs. and hence there is no need to interfere with the same. They thus prayed to dismiss the writ petitions.

3) The details of the writ petitions are shown in the following table:

S. No	Case No.	O.A. No.	Petitioner(s)	Respondents	Disputed questions	Zone
1	W.P. No. 36823 of 2014	OA No. 8535 of 2013	1) N.Jyoti Nirmala (DOA as Anganwadi worker 14.09.1998) 2) E.Madavi Lata (DOA18.10.1997)	1. Regnl. Jt. Director, WDCW Dept. and 4 others (official respondents)	10 questions— 22,28,36,50,51,69, 71,78 80 and 83 in Set 3 'D' series	V

S. No	Case No.	O.A. No.	Petitioner(s)	Respondents	Disputed questions	Zone
2	W.P. No. 36825 of 2014	OA No. 1150 of 2014	B.Vijaya Kumari (DOA 04.06.1991)	1. Regnl. Jt. Director, WDCW Dept. and 4 others (official respondents)	11 questions—21, 27, 35, 49, 50, 68, 69, 70, 77, 79 & 82 in Set 3 'C' series	V
3	W.P. No. 36837 of 2014	OA No. 8803 of 2013	V.Susheela	1. Regnl. Jt. Director, WDCW Dept. & 3 others (official respondents)	5 questions—22, 28, 51, 70 and 86 in Set 3 'D' series	VI
4	W.P. No. 36850 of 2014	OA No. 1623 of 2014	Ch.Sumathamma	1. Regnl. Jt. Director, WDCW Dept. & 3 others (official respondents)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	VI
5	W.P. No. 36888 of 2014	OA No. 8804 of 2013	G.Mamatha	State of Telangana, Reg.Dy. Director WDCW Dept. & 3 others (official respondents)	6 questions—19, 25, 48, 50, 60 and 70 in Set 3 'A' Series No Answer available for Q.No.70	VI
6	W.P. No. 36946 of 2014	OA No. 8844 of 2013	1.P.Shoba 2.G.alivelu	State of Telangana, Reg.Dy. Director WDCW Dept. & 3 others (official respondents)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	VI
7	W.P. No. 37056 of 2014	OA No. 8127 of 2013 -	Madiraju Jayasree	1.Regnl.Jt. Director and 21 others (including selected candidates)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	V
8	W.P. No. 37060 of 2014	OA No. 8401 of 2013	1.E.Annapurna 2.B.Kalyani 3.P.Padmavathi	1. Regnl. Jt. Director, WDCW Dept. & 4 others (official respondents)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	III
9	W.P. No. 37061 of 2014	OA No. 8571 of 2013	Marre Jhansilaxmi Bai (DOA 01.10.1999)	Reg. Joint Director, WDCWD and 21 others (including selected candidates)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series.	V
10	W.P. No. 37065 of 2014	OA No. 8080 of 2013	K.Prasanna Rani (Appointed in 2002)	Reg. Joint Director, WDCWD and 21 others (including selected candidates)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series.	V

S. No	Case No.	O.A. No.	Petitioner(s)	Respondents	Disputed questions	Zone
11	W.P. No. 37442 of 2014	OA No. 8084 of 2013 -	S.K.Razia Begum (Appointed in 1997)	1. State of Telangana by Regnl. Director, WDCWD and 4 others (including selected candidate)	19 questions—4, 13, 20, 26, 28, 34, 48, 49, 61, 69, 36, 83, 73, 86, 16, 3, 84, 60 & 89 in Set 3 'B' series	VI
12	W.P. No. 37443 of 2014	OA No. 8083 of 2013 -	B.Laxmi	1. State of Telangana by Regional Director, WDCWD and 4 others	18 questions—14, 21, 29, 46, 49, 50, 62, 70, 76, 82, 84, 52, 74, 79, 64, 17, 35, 3 in Set 3 'C' series	VI
13	W.P. No. 37444 of 2014	OA No. 2889 of 2014	1.L.Vanaja 2. K.Mamatha 3. B.Nirmala 4. K. Venkatanarasamma 5. D. Aruna Kumari	1. Regnl. Jt. Director, WDCW Dept. & 3 others (official respondents)	13 questions—14, 21, 29, 34, 46, 49, 50, 62, 70, 76, 82, 83 & 84 in Set 3 'C' Series	V
14	W.P. No. 37461 of 2014	OANo.232 of 2014	G.Rani	1. Regnl. Jt. Director, WDCW Dept. & 4 others (official respondents)	6 Questions—21, 26, 27, 35, 52 and 82 in Set 3 'C' series	V
15	W.P. No. 37566 of 2014	OA No. 5384 of 2013	Sampati Venkata Ramana	Reg. Joint Director, WDCWD and 3 others (official respondents)	10 questions—22, 28, 36, 50 51, 69, 71, 78, 80 and 83 in Set 3 'D'series.	V
16	W.P. No. 37640 of 2014	OA No. 498 of 2014	1. Dantla Govardhanamma 2. Bhimpati Suseela 3. Kandula vasundara 4. Annadasu Suneetha	Reg. Joint Director, WDCWD and 30 others (including selected candidates)	10 questions—22, 28, 36, 50 51, 69, 71, 78, 80 and 83 in Set 3'D' series.	III
17	W.P. No. 37711 of 2014	OA No. 8620 of 2013	V.Raja Ratna Kumari	Reg. Joint Director, WDCWD and 23 others (including selected candidates)	11 questions—15, 22, 27, 28, 49, 53, 70, 71, 75, 82 and 85 in Set 'D' series	V
18	W.P. No. 37712 of 2014	OA No. 8234 of 2013 -	1.P.Anitha 2.I.Padmavathi 3.G.Swarja Lakshmi	1.Regnl.Jt. Director and 20 others (including selected candidates)	11 questions—12, 19, 24, 25, 33, 60, 66, 68, 72, 77 & 80 in Set 3'A' series and 13 questions—15, 22, 27, 28, 49, 53, 70, 71, 75, 78, 80, 82 and 85 in Set 3'D' series	V

S. No	Case No.	O.A. No.	Petitioner(s)	Respondents	Disputed questions	Zone
19	W.P. No. 38235 of 2014	OA No. 230 of 2014	M.Ramanamma	1. Regnl. Jt. Director, WDCW Dept. & 4 others (official respondents)	8 questions—19, 24, 25, 33, 48, 50, 77 and 80 in Set 3 'A' series	V
20	W.P. No. 38236 of 2014	OA No. 8081 of 2013	A.Subhashini	Reg. Joint Director, WDCWD and 21 others (including selected candidates)	16 questions—15, 22, 27, 28, 49, 51, 53, 70, 71, 75, 63, 82, 85, 77, 65 and 69 in Set 3 'D' series	V
21	W.P. No. 5858 of 2015	OA No. 610 of 2014	1. P.Amrutha Kumari 2. K.Rama Devi	State of Telangana, Reg.Dy.Director & 5 others (including selected candidate)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	III
22	W.P. No. 5924 of 2015	OA No. 963 of 2014	1.A.Padmavathi 2.T.Thirmaleswari 3.G.Purna Kumari 4.S.Ramadevi. 5.G.Savithri	1. Regnl. Dy.. Director, WDCW Dept. & 5 others (including selected candidate)	10 questions—22, 28, 36, 50, 51, 69, 71, 78, 80 and 83 in Set 3 'D' series	III
23	W.P. No. 8413 of 2015	OA No. 592 of 2014	Baireddy Rani	1. State of Telangana by Regnl. Director, WDCWD and 3 others	10 questions—15, 22, 28, 36, 44, 48, 51, 52, 65, 70, 75, 80, 83, 84, 86, 88 and 89 in Set 3 'D' series	VI
24	W.P. No. 19272 of 2015	Directly filed the writ petition Note: 1) Leave granted on 17.6.15 in WP MP No. 16147/2015 2) The petitioners earlier filed WP 33525/2013 is pending	1.G.Vijaya Chandrika 2.S.Sree Devi 3.L.Swarna latha 4.K.Jhansi Lakshmi	1. Regnl. Joint. Director, WDCWD and 23 others (including the original applicants in OA.No.8234/13 and selected candidates)	9 questions—22, 28, 30, 36, 50, 51, 77, 83, 85 in Set 3 'D' series.	IV

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4) Heard arguments of Sri K.Suresh Reddy, learned senior counsel

appearing for Sri K.Sarath; Sri P.Narasimha; Smt.K.S.G.Padmavathi; Smt.K.V.Rajasree and Sri J.Sudheer, learned counsel for writ petitioners and learned Government Pleaders for Services-I for the States of Telangana and Andhra Pradesh.

5a) Challenging the order of the Tribunal in batch of OAs., the common argument of different counsels appearing for the writ petitioners is that for the written examination conducted by the respondent authorities for the post of Extension Officer, Grade-II no syllabus, course material and reference books were prescribed and therefore the petitioners who were working as Anganwadi Workers in different Anganwadi Centers had to prepare for examination by depending upon the course material such as Indira Darshini, Angan Vartha, Women and Child Consciousness and Publicity books supplied to the Anganwadi Centers by WD & CWD from time to time whenever new programmes were launched.

b) It is further argued that after examination was over the authorities have published the key containing answers to the question paper without calling for objections from the candidates. On perusal of the key answers the petitioners realized that answers provided in the key to some of the questions were wrong inasmuch as key answers were quite different from the material supplied by the department to the Anganwadi centers. They argued had the authorities called for objections the petitioners would have brought to their notice how some of the questions in the key were wrong with reference to the material supplied by the department and studied by them. Learned counsel vehemently argued that since the authorities have not prescribed any course material and reference books and as the petitioners noted answers basing on the materials supplied by the department itself, they deserve marks. However, the authorities have evaluated the papers basing on the wrong key and thereby the petitioners have lost valuable marks and thereby they could not be selected.

c) Learned counsel submitted that in each writ petition the writ petitioners have clearly mentioned the particulars of the questions for which wrong answers were provided in the key. They contended that when injustice is meted out to a candidate by dint of wrong answers provided by the authorities in the answer key released by them, the Court can interfere and check the correctness of the answers provided in the key for the disputed questions and if the answers in the key are found to be wrong and if the answers written by candidates for the corresponding questions are correct, suitable direction can be given to the authorities. On the power of the Court in this regard, learned counsel relied upon the following decisions.

1. **Kanpur University v. Samir Gupta**^[1]
2. **A.Swapna v. Convener EAMCET-1992**^[2]
3. **R.Kishan Kumar v. Convener EAMCET 1998**^[3]
4. **Manish Ujwal v. Maharshi Dayanand Saraswati University**^[4]
5. **District Educational Officer, Nizamabad v. Shivaji**^[5]
6. **Guru Nanak Dev University v. Saumil Garg**^[6]
7. **Convenor, JNTU v. C.Swarnalatha**^[7]

d) Nextly, they argued that the selection procedure itself is wrong inasmuch as contract Supervisors who were also eligible to appear for the examination were given 15% weightage and due to this discrimination, the contract Supervisors gained undue advantage over the other candidates in the matter of selection. They argued that when classification has no nexus within the object sought to be achieved, Court can strike down such classification. On this aspect they relied upon the decision of the Apex Court reported in **Kailash Chand Sharma v. State of Rajasthan**^[8]

Thus, they prayed to allow the writ petitions by setting aside the order passed by the Tribunal in batch of OAs.

6a) In oppugnation, learned Government Pleaders argued that as

per G.O.Ms.No.183 dt: 2.7.2013, 1741 posts of Extension Officer, Grade-II (Supervisors) were notified for selection of the candidates and the eligible Anganwadi Workers, Instructors and Supervisors on contract basis formed as feeder category for the said posts and those who were already working as Extension Officer, Grade-II on contract basis were given 15% service weightage. The Government constituted a Selection Committee with District Collector (Regional Head Quarters) as Chairman, Regional Joint Director of WD & CWD and District Medical and Health Officer (DM & HO) as members to conduct common written test for selection of candidates on merit basis. They further argued that written test was held for 50 marks of which, 45 marks for common written examination and 5 marks are awarded as incentive to those who have completed Balasevika Training.

b) Justifying 15% weightage given to the Extension Officer, Grade-II (Supervisors) working on contract basis, learned Government Pleaders argued that those Supervisors have been working under contract basis for more than 10 years and they were trained as Extension Officer, Grade-II (Supervisor) for which post the examination was being conducted and in fact those contract Supervisors were selected from the category of Anganwadi Workers during 2003-2006 through common written test duly following other conditions for regular recruitment and due to ban on regular recruitment prevailing at that time, they were continued on contract basis and therefore, the Government have sympathetically considered their case and accorded 15% weightage by which other candidates cannot plead any discrimination.

c) Nextly, speaking on the procedure of selection, they submitted that the question papers were formulated by the expert committee consisting of subject specialists, Professors of Home Science College, Acharya N.G.Ranga Agricultural University, Hyderabad and once again the answers were vetted by subject experts of Home Science

College and Senior Joint Directors of the Department who have vast domain knowledge of teaching experience behind them and therefore, the department had to rely on their knowledge and experience. The questions papers were prepared by four Professors of Home Science College, Acharya N.G.Ranga Agricultural University, Hyderabad and before conducting examination, they argued, the topics and subjects were communicated to the candidates through Regional Joint Directors concerned and also posted on the web site of the department i.e. <http://wcd.nic.in> duly informing that the questions will be selected from those topics. Learned Government Pleaders vehemently argued that since topics were communicated to the concerned Anganwadi Centers through the Regional Directors and also posted on the official website of the department well in advance, it is too naive and preposterous on the part of the petitioners to contend that no subject topics and reference books were prescribed to prepare for the examination.

d) Regarding mode of question paper, learned Government Pleaders submitted that objective type questions were set up with 4 multiple answers and candidates were asked to select one among the four answers by filling the same on the accompanying OMR sheets. 90 questions were given, each correct answer carrying $\frac{1}{2}$ mark and wrong answer carrying $\frac{1}{8}^{\text{th}}$ negative mark by deducting from the marks secured by the candidate.

e) They further argued that after examination was over the authorities released answer key for evaluation prepared by the subject specialists from Home Science College of Acharya N.G.Ranga Agricultural University. Later the key was once again checked by subject specialists of Home Science College and Senior Joint Directors of WD & CWD Department who have domain knowledge on the subject. Learned Government Pleaders argued there is no provision for inviting objections from the candidates in the matter of preparation of either question paper or key. Therefore, the petitioners

cannot contend that the authorities ought to have called for objections before releasing the key. Regarding correctness of the key, they argued that when the petitioners pointed out the errors in respect of 10 questions in 'D' series the respondent authorities have once again discussed with the subject experts and Professors of Home Science College of Acharya N.G.Ranga Agricultural University and experts have reaffirmed that all the answers provided in the key are correct and there is no ambiguity. Key answers were prepared basing on the standard books such as Hand book of Adolescent Development; Hand book of Anganwadi Workers National Institute of Public Cooperative and Child Development, Exploring Child Development by Faber and Martin; Child Development by Rajammal P Devdas and N.Jaya etc. The experts have avouched the correctness of the answers provided in the key and therefore the petitioners cannot question the same.

f) Deprecating the contention of the petitioners that the key answers are wrong inasmuch as they are not matching with the materials provided from time to time by the department like Indira Darshini and other IEC (Integrated Early Child Education) materials, learned Government Pleaders argued that the department never notified that materials supplied to the Anganwadi Centers can be relied upon by the petitioners for preparation of the examination because those periodicals like Indira Darshini and other IEC materials though were published by the department have limited purpose of launching various programmes but they cannot serve the purpose for preparation of examination and further, the said materials were not vetted by the subject experts. Therefore, petitioners cannot bank upon the un-vetted materials for preparation to challenge correctness of the key answers.

g) They vehemently argued that unless the petitioners could able to demonstratively establish through standard books or affidavits of

the subject experts that key answers are wrong and the answers written by them were correct, they cannot seek indulgence of the Court.

h) They argued that learned Tribunal has rightly dismissed the OAs. after considering the respective contentions of both parties and there is no need to interfere with the common order. Thus they prayed to dismiss the writ petitions.

7) In the light of above rival arguments, the point for determination is:

“Whether the common order passed by the Tribunal in batch of OAs. is factually and legally sustainable?”

8a) **POINT:** The admitted facts are that the petitioners are working as Anganwadi Workers in different Anganwadi Centers. The Government by G.O.Ms.No.183 Finance (SMPC-I) Department dated 02.07.2013 accorded permission to fill up vacancies in various departments through direct recruitment and accordingly 1741 vacancies of Extension Officer, Grade-II (Supervisor) in WD & CWD Department were notified to be filled up in composite State of Andhra Pradesh. G.O.Ms.No.14 Women Development and Child Welfare and Disabled Welfare (Estt.) Department dated 10.05.2000 would show that Selection Committee consisting of Collector (Regional Head Quarter, District) as Chairman and Regional Deputy Director, WD & CW and District Medical and Health Officer (DM & HO) as members was constituted for conducting examination. The eligible Anganwadi Workers, eligible Instructors and others are feeder category for Extension Officer, Grade-II (Supervisor) in terms of G.O.Ms.No.14. Service weightage of 15% of total marks is given to those who are working as Extension Officer, Grade-II (Supervisor) on contract basis. 50 marks were fixed for selection i.e. 45 marks for written test and 5 marks as incentive to those who have undergone Balasevika Training. Written test is concerned, 90 objective type questions were given with

multiple answers, each question carrying ½ mark and negative mark of 0.125 for wrong answer. The answers are required to be filled up in OMR sheets. All the petitioners being eligible, appeared for written examination held on 27.10.2013 and results were published on 31.10.2013 and answer key which is the bone of contention now, was released on 01.11.2013. As per the evaluation made on the basis of key, the writ petitioners were not selected. Hence, they filed batch of OAs. before APAT.

b) Before APAT the petitioners mainly challenged the correctness of the key with reference to the materials supplied by the department to the Anganwadi Centers. They contended that answers to some of the questions provided in the key were wrong when compared with the materials supplied to them and therefore, they should be allotted marks for the questions challenged by them in their respective OAs. if they are found to be correct with reference to the materials supplied to them. This argument was not found favour with the APAT as the learned Tribunal agreeing with the contention of the respondents held that the materials relied upon by the petitioners was not vetted by any subject specialists and experts. The Tribunal held that applicants cannot depend upon the IEC materials for answering the written examination conducted by the department. The challenge of petitioners against awarding of 15% weightage to contract Supervisors was also negated on the ground that they have been working as contract Supervisors and acquired experience for the post for which recruitment was taken up and therefore, 15% weightage cannot be termed as irrational or irregular. The further contention of the petitioners that the authorities have not called for objections from the candidates while releasing key was also turned down holding that it was not mandatory for the authorities to call for objections. The last contention of the petitioners that conducting of written test through OMR sheets was irregular was not accepted by the Tribunal holding

that the method of inviting answers in OMR sheets will ensure correct and transparent evaluation. Accordingly, the learned Tribunal dismissed the batch of OAs.

Hence, the instant writ petitions.

9) The law on the indulgence of the Court in a case of this nature is no more *res integra*.

10) In **Samir Gupta**'s case (1 supra) the writ petitioners challenged the correctness of the answers provided in the key to three questions given in combined Pre-Medical Test conducted by Kanpur University. They sought to vindicate their stand through the opinion of the experts on the subject and also standard books. The Allahabad High Court accepted their contention and therefore the Kanpur University filed the appeals. Before the Apex Court the Kanpur University vehemently contended that no challenge can be allowed to be made regarding correctness of the key unless on the face of it the key is wrong. While agreeing the same, the Apex Court made the following observation which is very much germane for the case on hand.

“Para.16: Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. We agree that the key-answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text-books leave, no room for doubt that the answer given by the students is correct and the key answer is incorrect.”

Thus, Honourable Apex Court at the first instance noted that a

key prepared by the experts and released by the authorities shall be presumed to be correct and it should not be held to be wrong by inferential process of reasoning or by a process of rationalization. The Apex Court observed that key will be held to be wrong only when it is clearly demonstrated to be wrong. Demonstration should be such that no reasonable body of men well-versed in the particular subject would regard (key) as correct. Such is the rigour of the test prescribed by the Apex Court for holding the key as wrong which is otherwise presumed to be right.

11) In **A.Swapna's** case (2 supra) two writ petitioners challenged the correctness of the answers provided in the key to 8 questions each, of which 5 are common, given in the EAMCET Examination 1992. In that context, relying on **Samir Gupta's** decision and other decisions a learned single Judge of this High Court enquired into the correctness of key answers by taking into consideration the prescribed text books, signed statements and opinions of the subject experts i.e. Lecturers, Professors and Chief-Examiners submitted by way of affidavits and ultimately gave direction to the examination authorities to award marks to the candidates whenever their answers are found to be correct though they do not tally with the key answers which are found to be demonstratively wrong.

a) The above decision also manifests that upon the petitioners demonstratively proving the falsity of the key, the Court showed its indulgence.

12) In **R.Kishan Kumar's** case (3 supra) the facts are that in EAMCET-1998 examination the authorities though gave 200 questions but proposed to delete 23 questions relating to branch of Agriculture and Medicine on various grounds viz. that some of the questions were defectively framed, that the key answers for some were wrong; that for some questions there were more than one answer; that some questions were out of syllabus; that there were

printing mistakes either in the Telugu version or the English version in the question paper etc. The authorities after deleting 23 questions evaluated papers for 177 questions and proportionately increased the marks to 200 and ranking was made on that basis. However, such deletion of 23 questions was challenged by the candidates in a batch of writ petitions, on the general argument that rules do not permit such deletion. They also specifically challenged the deletion on merits by question wise. Learned single Judge of this High Court upon following the decisions in **Samir Gupta's** case (1 supra) and **A.Swapna's** case (2 supra) and others, decided the matter. Learned Judge turned down the general objection raised by the petitioners for deletion of 23 questions on the observation that though there is no express provision for deletion of questions in the examination such power to delete any question must be implied and it is also the bounden duty of the authority to delete such question. Thereafter, learned single embarked upon considering the specific objections for deletion of 23 questions. It appears, during arguments, the petitioners confined the objection only '11' questions. Learned Judge discussed the merits and demerits in deletion of those questions and accordingly gave directions.

a) So, in the above case also the criteria applied was that the fault of the key should be demonstratively proved to seek indulgence of the Court.

13) In **Manish Ujwal's** case (4 supra) also the Apex Court basing on the opinion of the experts of Jodhpur and Udaipur Universities found that answers provided in the key for six questions given in common entrance test for admission to MBBS/BDS courses were palpably and demonstratively incorrect and erroneous. So far as some other questions were concerned, there was cleavage of opinion among the experts and so the key answers for those questions were presumed to be true. So, in that case also the Court showed its indulgence on petitioners demonstrably proving the falsity of some of the answers in the key with the help of the opinion of the experts in the field.

14) In ***District Educational Officer, Nizamabad***'s case (5 supra) the answers provided in the key for three questions given in the examination for the post of Physical Education Teachers were demonstratively proved to be wrong before the APAT and hence its decision was upheld by the High Court but confined the order to the applicants in OA only.

15) In ***Saumil Garg***'s case (6 supra) basing on the report given by the Central Board of School Education (CBSE) and University of Delhi, the Apex Court came to the conclusion that answers provided in the key for 8 questions given in MBBS Entrance Test were incorrect and accordingly passed orders.

16) In ***C.Swarnalatha***'s case (7 supra) similar question was involved.

17) So, the underlined principle in all the aforesaid decisions is to the effect that key prepared and furnished by experts is generally presumed to be correct unless its answers are demonstrably proved to be wrong by the persons who challenge their correctness. With the above principle behind us, we have to decide the matters on hand.

18) A close analysis of the writ averments and arguments addressed by learned counsel for different writ petitioners would show that their main plank of argument is that some of the answers given in the key released by the respondent authorities are not correct. It should be noted that admittedly four sets of question papers—A B C D were prepared by the authorities with the same questions but in jumbled fashion. The different writ petitioners challenged the correctness of the answers in the key relating to different questions in different sets of question papers, as stated supra in table. Be that it may, the common ground on which they challenged the correctness of the answers given in the key is that those answers are not matching with the materials supplied by the Department to Anganwadi Centers from time

to time while new programmes were launched. Their contention is that as the department has not prescribed any specific study material for preparation of the examination, they mainly relied upon the materials supplied to them periodically and answered the question paper basing on the aforesaid material. Since some of the answers given in the key are varying with the material studied by them, they contend that key answers are wrong. It is pertinent to note here that except relying on the aforesaid material the petitioners have not made any other endeavours to establish the falsity of the key with reference to the questions challenged by them by producing the opinions of the subject experts or established text books. The contention of the respondent—authorities is that the question papers were set by the subject experts like Professors of Home Science College, Acharya N.G.Ranga Agricultural University and key answers were also got prepared through the subject experts who vetted and furnished the key and therefore there is no fault in the key. The claim of the respondents can be understood in the light of observations of the Apex Court in **Samir Gupta's** (1 supra). The Apex Court held that correctness of the key prepared by the subject experts can be, *prima facie*, presumed unless its errors are demonstrably proved by challengers. The said presumption applies to the key released by the respondents in the instant case also. Though the petitioners apparently contend that some of the key answers are wrong, however their real contention is that since they answered the questions basing on the materials supplied to them, they should be given marks if their answers are correct with reference to the materials supplied and studied by them. So, in essence the petitioners have not made any real effort to establish that the key answers are wrong by producing experts' views and standard textbooks. On the other hand, their claim is that irrespective of truth or falsity of the key answers, they should be given marks if their answers tally with the materials supplied to them.

We afraid, with the above contention, the petitioners cannot seek

indulgence of the Court. To indulge, *sine quo non* as laid down in catena of decisions is to prove the falsity of the key demonstrably. The burden is heavy on the petitioners in this context.

19) The materials relied upon by the petitioners are concerned, the same cannot be accepted for the reason that as rightly contended by learned Government Pleaders, the department has never notified that the materials furnished by it to Anganwadi Centers can be treated as study material for preparing the examination. Further, admittedly, those materials were never vetted by any subject experts unlike the key answers. Such unauthenticated and unauthorized material cannot be pitted to challenge the correctness of the key, in our considered view. On the other hand, the submission of respondents is that before conducting examination the topics and subjects were communicated to the Anganwadi Centers through Regional Joint Directors concerned and were also posted on the web site of the department (<http://wcd.nic.in>) informing that the questions will be selected from those topics. In that view also the materials relied upon by the petitioners cannot be approved. The petitioners have challenged the key also on the ground that no objections were called for from the candidates while releasing the key and therefore, they lost an opportunity to point out the wrongs before hand. This argument does not carry conviction for the authorities are not bound under any rule to call for objections before releasing the key. So, at the outset, it must be held that the petitioners failed to demonstrably prove the alleged falsity of the key.

20) The next contention of the petitioners is that 15% weightage given to the contract Supervisors is illegal, irregular and irrational. The justification pleaded by the respondents is that the contract Supervisors were selected from the category of Anganwadi Workers during 2003-2006 in the common written test duly following other conditions prescribed for regular recruitment but however, due to ban

on recruitment during that period, they had to be continued on contract basis as Extension Officer, Grade-II. Since they have been working all these years as Extension Officer, Grade-II (Supervisor) the post for which the recruitment was also taken up, the authorities considered it appropriate to give 15% weightage. We find the decision of the respondents rationale. Those persons who have been officiating the same post on contract basis can easily adopt and adapt to the same work and can discharge their functions more efficiently and in that view of the matter, to extract more work from them the respondent authorities seems to have given service weightage. The classification between the contract Supervisors and others will hence, serve the object sought to be achieved. So the petitioners cannot claim it to be unjust or illegal differentiation.

21) The cited decision can be distinguished on facts. In ***Kailash Chand Sharma***'s case (8 supra) Rajasthan Government in the matter of direct recruitment to the post of teachers in Panchayat Schools proposed to assign bonus marks to domiciles, residentials of the district concerned and residents of rural areas of that district respectively. There was no written examination and the interview was of the formal nature and there was no comparative assessment of merit therein. Due to the said policy some of the candidates hailing from different districts and towns were made not eligible for bonus marks and they challenged the decision of the Government. The Apex Court impugned the said classification and held it to be impermissible discrimination and observed there was no rationale basis for preferential treatment. However, that is not the case here and preferential treatment is sought to be given to those who have been already officiating in the same post and gained considerable experience and therefore, they deserve service weightage.

22) So, on a conspectus of facts and law, we do not find any illegality

or irregularity in the order passed by the Tribunal in a batch of OAs. The writ petitions, in our considered view, are devoid of merits and liable to be dismissed and are accordingly dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

G.CHANDRAIAH, J

U.DURGA PRASAD RAO, J

Dt:11.04.2016

Murthy

[\[1\]](#) (1983) 4 SCC 309
[\[2\]](#) 1993 (2) ALT 352
[\[3\]](#) 1998 (3) ALT 40
[\[4\]](#) (2005) 13 SCC 744
[\[5\]](#) 2010(5) ALD 262 (DB)
[\[6\]](#) (2005) 13 SCC 749
[\[7\]](#) 1996 SCC Online AP 1204 = (1996) 3 SLR 492 (DB)
[\[8\]](#) (2002) 6 SCC 562