

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT JUSTICE ANIS

WRIT PETITION No. 19433 of 2016

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ORDER: (*Per VRS,J*)

Aggrieved by the non-evaluation of her answers to question No.5 of Part-B, Criminal Paper, for selection to the post of Civil Judges (Junior Division), the petitioner has come up with the present writ petition.

2. Heard Mr. Kowturu Pavan Kumar, learned counsel for the petitioner, and Mr. P. Ravi Prasad, learned standing counsel appearing for the Registry of the High Court.

3. On 01.02.2014, a notification for recruitment of Civil Judges (Junior Division) was issued by the High Court. In the written examination conducted on 25.10.2015, the petitioner, who belongs to the Scheduled Castes, became successful. Therefore, by a call letter, dated 30.11.2015, the petitioner was invited for an oral interview on 18.12.2015.

4. Though the petitioner secured 37 marks out of maximum of 80 in the written examination and 7 marks out

of maximum of 20 in the oral examination, and thus, secured 44 marks in total, she was not included in the Selection List forwarded by the Registry. On the contrary, the petitioner found the name of Smt. Santhi Soni Noothakki, who had secured 44.10 marks in the aggregate, who also belongs to the Scheduled Castes, having been included in the Selection List.

5. Therefore, the petitioner made an application on 28.04.2016 seeking copies of the answer sheets. The answer sheets were furnished to her on 25.05.2016. Finding that for question Nos. 5(b) and 5(c) of Part-B (Criminal Paper), the examiner has awarded only one set of marks, as against question No.5(c), the petitioner made an application for the evaluation of the left out answer. The said request was turned down by the Registry, by an order, dated 10.06.2016. Therefore, the petitioner has come up with the present writ petition.

6. It is seen from Part-B of the question paper that question No.5 has three parts, namely, (a), (b) and (c). Each of those questions carried two marks. These questions are as follows:

*“(a) What is First Information Report (FIR)?
State the procedure to be followed
by a Police Officer after receiving
the FIR?”*

(2

marks)

*(b) What is the evidentiary value of the FIR
in a criminal trial? (2
marks)*

*(c) What is the effect of delay in lodging
the FIR? (2
marks)”*

7. Insofar as question No.5(a) is concerned, the petitioner has been awarded one mark. Therefore, there is no dispute with regard to the same.

8. Similarly, insofar as question No.5(c) is concerned, the examiner appears to have awarded 1 ½ mark as against the total of 2. But, in respect of question No.5(b), no mark has been awarded nor the answer was struck off as completely wrong, not deserving of the award of any mark. Therefore, the petitioner is right in contending that the answer to question No.5(b) has not been evaluated at all.

9. It is contended by Mr. P. Ravi Prasad, learned standing counsel for the Registry, (1) that the petitioner is guilty of delay and laches, (2) that the petitioner has not impleaded the candidate, who would be affected by the prayer in the present writ petition being granted, and (3) that the 1 ½ mark awarded at internal page No.20 of the

answer sheet, should be taken to be for both question Nos.5(b) and 5(c).

10. Insofar as the first contention is concerned, we do not think that the petitioner was guilty of delay and laches. The written examination was conducted on 25.10.2015 and the results were declared on 30.11.2015. The petitioner was called for an interview on 18.12.2015. Up to the date of publication of the results, which were uploaded in the website on 29.01.2016, the awarding of marks is of no relevance to the petitioner, as unless and until the results of all the candidates are out, the petitioner would have had no cause to complain.

11. After the publication of the results in the website on 29.01.2016, the petitioner made an application under the R.T.I.Act on 28.04.2016, seeking true copies of the answer sheets. The copies of the answer sheets were furnished on 25.05.2016. Immediately, the petitioner found that the answer to question No.5(b) was not evaluated. Therefore, she made a representation on 26.05.2016, which was rejected by an order, dated 10.06.2016. Immediately, the petitioner filed the above writ petition on 16.06.2016. Therefore, the petitioner cannot be held to be guilty of delay and laches.

12. The second contention of Mr. P. Ravi Prasad, learned standing counsel for the Registry, revolves around the non-impleadment of the selected candidate. But, the said contention cannot be accepted for two reasons. The first is that all that the petitioner is seeking is a direction to evaluate one answer that was left out. Today, nobody knows what would be the fate of such evaluation of an answer that was omitted to be evaluated. Unless the evaluation leads to the betterment of the petitioner as against another candidate, which is hypothetical at this stage, no one else's right will stand affected at this stage. The second reason, as to why we do not accept the second argument of the learned standing counsel for the Registry, is that it is settled position of law that no person included in the Select List, has a vested right to seek appointment. Till the appointment comes, the right of candidates included in the Selection List, is only in a state of limbo. Therefore, the second contention cannot also be accepted.

13. Insofar as the third contention is concerned, we have seen from the answer sheets that the answer to question No.5(a) has been given by the petitioner in internal page No.19 of the answer sheets. The examiner has awarded one mark for the said answer. The answers

to question Nos.5 (b) and 5(c) are given in internal page No.20 of the answer book. The first half of the said page contains the answer to question No.5(b) and the second half contains the answer to question No.5(c). It is clear, as against question No.5(c), that the examiner has awarded 1 ½ mark.

14. To satisfy our conscious, we have also checked up the answers to question Nos.5(b) and 5(c). From our perusal, it is clear that it was not possible for the examiner to award 1 ½ mark for both questions put together. Therefore, we have no alternative except to take that the 1 ½ mark awarded was for the answer to question No.5(c). The result is that question No.5(b) has been left non-evaluated. In such circumstances, the petitioner is entitled to have the answer to question No.5(b) evaluated.

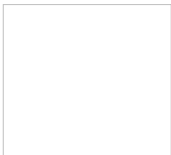
15. In the light of the above, the writ petition is allowed, directing the Registry to evaluate the answer to question No.5(b) of Part-B (Criminal Paper) of the petitioner, through the same person, who evaluated the entire answer book of the petitioner. This exercise shall be carried out, within a week of receipt of a copy of this order and suitable action taken, as a consequence of such evaluation.

Consequently, miscellaneous petitions if any pending in the writ petitions shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ANIS, J.

1st September, 2016
cbs



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