

IN THE H IGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P.No.6270 of 2017

and

W.M.P. 6765 of 2017

M.Sathishkumar

... Petitioner

Vs.

1. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai - 3.

2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai - 3.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the second respondent to validate the OMR answer sheet having Register No.060132059 belonging to the petitioner pertaining to Group-IV Services for the year 2015-2016 and publish the result of the petitioner and pass such further orders.

For Petitioner : Mr.E.P.Senniyangiri

For Respondents : Dr.M.Devendran
Standing Counsel for R1 & R2

ORDER

By way of filing this writ petition, the petitioner seeks a direction to the second respondent / the Controller of Examinations, Tamil Nadu Public Service Commission (TNPSC), Chennai, to validate the OMR answer sheet having Register No.060132059 belonging to him pertaining to Group-IV Services for the year 2015-2016 and thereby publish the results.

2. It is submitted by the learned counsel for the petitioner that the petitioner has completed the Typewriting course both in Tamil and English and he has also completed Post Graduate Degree in MCA. Whiles, the first respondent / TNPSC, published a Notification No.15/2016 inviting applications from the eligible persons for direct recruitment against the vacancies included in Group-IV for the year 2015-2016. Although several posts were included, the petitioner has applied for the post of Typist, as he is having the requisite qualification for the said post. Thereafter, he was issued with a hall ticket having Registration No.060132059, scheduling the date of written examination to be held at Kongu Arts and Science College, Perundurai Road, Nanjanapuram, Erode, on 06.11.2016.

3. It is further submitted that during the course of examination, as instructed by the Invigilator, he has rightly filled the Booklet Series Number as mentioned in the Question paper in the column allotted in the OMR sheet. However, the Invigilator, by realizing his mistake that he has given different Booklet having different serial number, asked the petitioner to handover the same and thereafter, the said Invigilator has also issued another Booklet having Serial No.21300519. The question paper collected from the petitioner was re-issued to some other candidate writing the examination in the same row. It is further stated that the petitioner has also informed the Invigilator that he has already entered the serial number of earlier booklet in the OMR sheet, for which, it is stated by the Invigilator that he would not face any problem as long as the Registration number is correctly mentioned in the box provided at the top of the OMR sheet. However, out of curiosity, the petitioner has overwritten the serial number of new question paper in the hand written format, but, did not erase the entire made in the box. Finally, his candidature was invalidated as could be seen from the results published by the TNPSC on 21.02.2017. Subsequently, on 22.02.2017, he met Mrs.Shobhana, I.A.S., Controller of Examination, TNPSC, Chennai, and informed about the mistake committed by the Invigilator during the course of examination, and thereby he has also sought for her interference to rectify such mistake committed by the Invigilator, but, the same went in vain. Therefore, it is contended by the learned counsel for the petitioner that it is a clear case of apparent mistake committed by the Invigilator, who has admittedly issued a wrong question paper having Serial No.21300511, therefore, he pleaded, the respondent ought not to have invalidated the answer sheet of the petitioner.

4. By relying upon the instruction given to the Room Invigilator, learned counsel submitted that as per the said instruction, it is the duty of the Invigilator to verify whether the Register Number, Question Booklet Serial Number and Subject

Code have been entered/shaded by the candidate correctly and thereby, only after the verification, the Invigilator has to sign the OMR sheet. However, in the petitioner's case, the Invigilator himself committed a mistake by wrongly issuing the Question Booklet, therefore, the respondent ought not to have invalidated the candidature of the petitioner for the mistake committed by the Invigilator. Therefore, he prayed for a direction to the respondents to validate the OMR sheet answer pertaining to the petitioner having Registration No.060132059.

5. Per contra, learned standing counsel appearing for the respondents, by filing a detailed counter affidavit, submitted that after the Commission issued Notification dated 09.08.2016 inviting applications through on-line mode for the post of Typist, the petitioner has also applied for the said post and thereafter, he has also appeared in the written examination held on 06.11.2016 with Registration No.060132059. In the said examination, totally 12,51,291 candidates appeared held in 32 Districts across the State.

6. It is further stated that in the OMR sheet, the petitioner has neatly written his name, date of examination, name of examination and the subject name. Besides, he has also written his Register Number, Question Booklet Number and the Subject Code in the space provided and the petitioner has also shaded the boxes provided for computer reading. Whiles, although he has written the Booklet Serial No.21300519 properly in the space for writing the numeric, while shading a box for a number 9, the petitioner has shaded two boxes meant for the digit 1 and 9 in the same column instead of shading only one box corresponding to number 9. Thus, it is clear that the petitioner has violated Instruction No.6 of the OMR sheet, wherein it is stated that the penalty will be imposed for incorrect or absence of shading of Question Booklet Serial Number. Therefore, he contended, based on the said instruction, his candidature was invalidated as he has admittedly shaded two boxes meant for the digit 1 and 9 of the same column instead of only one box corresponding to number 9. Hence, filing of the present writ petition seeking a prayer to validate his OMR sheet having Registration No.060132059 and publish his results is neither maintainable nor tenable, therefore, on this score, he prayed for dismissal of the writ petition.

7. Refuting the allegation of the petitioner that his candidature was invalidated without taking note of the fact that he has shaded two boxes in view of the mistake committed by the Invigilator as he has wrongly issued the Booklet Serial Number pertaining to another candidate, it is submitted by the learned counsel for the respondents that no such mistake was committed by the Invigilator as alleged, for, if the said contention is

true, he ought not to have received another Question Booklet from the room Invigilator, on the other hand, he should have demanded a fresh OMR answer sheet, however, without doing so, he has no locus-standi now to contend that due to the mistake committed by the Invigilator, his candidature was wrongly rejected, especially, having completed MCA and having appeared many times for the TNPSC examinations.

8. It is further stated that the petitioner has also not furnished the Question Booklet Number said to have been served to him by the Room Invigilator. Moreover, with regard to the averment made by the petitioner in paragraph 9 of his affidavit stating that he has overwritten the Question Booklet Number of the new Question Booklet Number in the handwritten format and not erased the entries made in the boxes, learned counsel for the respondents, on verification of the OMR sheet of the petitioner, submitted that only the Question Booklet Number 21300519 is written and there is no overwriting in the OMR answer sheet in the space relating to Question Booklet Number. Thus, he contended, such writing of the petitioner shows that he has erred in shading the Question Booklet Number, hence, on this count also, he prayed for dismissal of the writ petition.

9. I fully agree with the above said submissions of the learned standing counsel for the respondents for the reasons stated below:-

Firstly, if the petitioner was handed over with wrong Question Booklet meant for another candidate, in my view, the petitioner, having admitted in paragraph 3 of his affidavit that he used to write almost all the examinations of the TNPSC, would have got well exposure in writing these examinations, therefore, he ought to have refused to accept the wrong Question Booklet Number meant for another candidate from the Room Invigilator. Secondly, after the receipt of the Question Booklet meant for another candidate, he should have demanded a fresh OMR sheet from the Invigilator, especially he being a Post-Graduate in MCA and having appeared many times in the examinations conducted by the TNPSC.

10. Thirdly, in paragraph 9 of the affidavit, he has admitted that he has overwritten the Question Booklet Number of the new Question Booklet Number in the written examination and not erased the entries in the box. On verification of the official records, the TNPSC has replied that the Question Booklet Number 21300519 only is written clearly and there is no overwriting in the OMR answer sheet in the space relating to Question Booklet Number. It is also pertinent to note that although the petitioner had admittedly shaded in the OMR answer sheet to mean Question Booklet Numbers 21300511 and 21300519, the other candidate, who was allotted Question Booklet Number

21300511, has correctly shaded his Question Booklet Number, therefore, it is clear that the petitioner has committed a mistake by shading two boxes meant for the digit 1 and 9 in the same column instead of shading only one box corresponding to number 9. Such mistake committed by the petitioner is against the Clause 5 (2) (iii) of the Notification dated 09.08.2016 published by the TNPSC, which reads as under:

“(iii) The answer sheet will be invalidated if the box provided for booklet series mentioned in the question paper is not shaded / in correctly shaded.”

11. Thus, as highlighted above, the petitioner, having shaded two boxes meant for the digit 1 and 9 in the same column instead of shading only one box corresponding to number 9, has no locus-standi to seek a prayer for valuating his OMR sheet having Registration No.060132059 in violation of the above said condition stated in the Notification dated 09.08.2016.

12. Apart from the above, the other candidate, who was issued with Question Booklet Number 21300511, has neither made any overwriting nor made any wrong shades in the box provided in the OMR sheet for Question Booklet Number nor he has made any complaint before the authorities. Therefore, the allegation of the petitioner that the Room Invigilator has wrongly issued the Question Booklet meant for another candidate to him is wholly misconceived.

13. It is also further seen that although the TNPSC conducted the examination on 06.11.2016 and that the result of the said examination was published on 21.02.2017, however, for the first time, he has made a representation only on 23.02.2017 followed by reminder dated 06.03.2017 stating that the Room Invigilator has wrongly issued the Question Booklet meant for another candidate. Therefore, it is not known why he did not make any such representation soon after the examination held on 06.11.2016. Had the Room Invigilator committed any such mistake as alleged by him, as stated above, he, being MCA graduate, ought to have refused to accept the another Question Booklet served to him meant for another candidate. In other words, either he could have sent his complaint to the Chief Invigilator or could have sent his representation immediately to the respondents. However, no such step was taken by him, but, on the other hand, he has sent his representation only on 21.02.2017, that too without there-being any proof thereof.

14. Thus, for the reasons stated above, in my view, the prayer of the petitioner is only an afterthought. Accordingly, the writ petition is dismissed as devoid of any merit. No Costs. WMP.No.6765 of 2017 is closed.

-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai - 3.
2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai - 3.

+1 CC to Mr.E.P.Senniyangiri, Advocate sr 23985
+1 CC to Dr.M. Devendran, standing Counsel sr 23408

W.P.No.6270 of 2017

KJI (CO)
sp/10/5

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