BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP(MD)No.16188 of 2017
and
WMP(MD)Nos.12866 and 12867 of 2017

R.Ravindran ... Petitioner

vs.

1)The Secretary,
School Education Department(TRB)
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai-600009.

2)The Chairman,
Teachers Recruitment Board,
College Road,Chennai-600 006.

3)The Director of School Education,
D.P.I Campus,
College Road, Chennai-600 006.

4)The Joint Director of School Education,
(Higher Secondary),
D.P.I. Campus, College Road,
Chennai-600 006. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 2nd respondent to award five marks to the question Nos.14, 18, 30, 83, 100 (Booklet Series 'A') in the examination for direct recruitment for the post of PG Assistant for the year 2016 - 2017 and further direct the Respondents to provide appointment to the petitioner within the time frame that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.A.Robinson
For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

The prayer in the writ petition is for issuance of a Writ of Mandamus, directing the 2nd respondent to award five marks to the question Nos.14, 18, 30, 83, 100 (Booklet Series 'A') in the examination for direct recruitment for the post of PG Assistant for the year 2016 - 2017 and further direct the Respondents to provide appointment to the petitioner within the time frame that may be stipulated by this Court.

2.It is pertinent to extract below the aforementioned questions:-

''*14)Money advanced by a Director to the company to pay wages to the workers of the company is of the nature of a:*
(A)Preferential creditor *(B)Unsecured creditor*
(C)Secured creditor *(D)Legal charges*

18)The auditor even after several years by which time he might have forgotten everything about that particular audit in this situation, the following documents helps him as evidence:
(A) Audit Working Papers
(B) Audit Note Book
(C) Audit Diary
(D) Audit Programme

30)The method of Project Evaluation that does not consider the full serviceable life of the asset is:
(A) Pay-back Period Method
(B) Average Rate of Return Method
(C) Net Present Value Method
(D) Internal Rate of Return Method

83)Inspectors of Income-tax are appointed by:
(A) The Central Government
(B) The Finance Minister of India
(C) Central Board of Direct Taxes
(D) The Chief Commissioner of Income Tax

100)The responsibility of consumer under Consumer Protection Act 1986 does not include:
(A) To exercise caution in purchasing
(B) To insist on cash memo or receipts
(C) To be quality conscious
(D) To get relief against unfair trade practices''

3.The learned Special Government Pleader appearing for the respondents submitted that for question No.18, the correct answer is (A)Preferential creditor, but the petitioner has chosen the wrong answer (B)Unsecured creditor.

4.It is further submitted that with regard to question No.18, the petitioner has wrongly chosen option (D)Audit Programme as answer, but the correct answer is (B)Audit Note Book. The learned Additional Government Pleader with the assistance of Dr.L.Cesis Dastan, Associate Professor, Presidency College, Chennai, taking support from the textbook namely, A Handbook of Practical Auditing by B.N.Tandon, S.Sudharsanam and S.Sundharabahu submitted that Audit Notebook is the only answer. The relevant portion is extracted hereunder:-

''*If notes have been properly made in the Audit Note Book, it might prove of great value to the auditor later on, in case a suit is filed against him for negligence or misfeasance. Such a book will be a documentary evidence in favour of the auditor even after several years by which time the auditor might have forgotten everything about that particular audit. The importance of such a Note Book was emphasised by Lord (then Mr.) Justice Vaughan Williams in the London and General Bank case. Similarly the Audit Note Book which contained detailed information was of great assistance to the auditor in the case of the City Equitable Fire Insurance Company.*

Such a book should be clear, concise and complete so that it may be quite Intelligible to the clear who audits the accounts of the same concern next year. In fact it would be a guide to such a clerk.''

5.With regard to question No.30, the learned counsel for the petitioner taking support from the text book namely, Financial Management authored by Mr.A.Murthy submitted that the correct answer is option (B)Average Rate of Return Method. However, the Expert referring to the same book relied upon by the petitioner submitted that the Author of the said book has not given the correct answer. The reason is, while discussing the merits of Average Rate of Return Method, the Author has said that Average Rate of Return Method takes into consideration the total earnings from the project during its life time that itself is wrong, therefore, the correct answer as per the standard textbook namely, Accounting by Dr.S.N.Maheshwari would be (A) Pay-back Period Method. I also find merit therein. The relevant portion of the textbook is given as under:-

''*The method ignores the returns generated by a project after its payback period. Projects having long gestation period will never be taken up if this method is followed though they may yield high returns for a long period.*''

6.In respect of question No.83, the petitioner has chosen answer (A)The Central Government. The learned Special Government Pleader appearing for the respondents would submit that Inspectors of Income-tax are appointed by the Chief Commissioner of Income Tax. In support of the same, he relied upon the book namely, Income Tax Law and Practice, Assessment Year 2012-13, 40th Edition 2012 by V.P.Gaur, D.B.Narang Puja Gaur and Rajeev Puri, which says that the Income-Tax Inspectors are appointed by the Chief Commissioner or Commissioner of Income Tax. Again, referring to Section 117(2) of the Income-Tax Act, 1995, wherein, it is stated that the Central Government may authorise the Board or a Director General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner, the learned Special Government Pleader submitted that although the power is vested with the Central Government, in view of the delegation of power given to the Chief Commissioner of Income-Tax, the Inspectors of Income-Tax are now appointed only by the Chief Commissioner of Income-Tax, therefore, having chosen the wrong answer(A)The Central Government, the petitioner cannot ask mark for the said question.

7.The learned Special Government Pleader appearing for the respondents submitted that for question No.100, the correct answer is (D)to get relief against unfair trade practices, but the petitioner has chosen the wrong answer (B)to insist on cash memo or receipts.

8.In the result, the petitioner who has given wrong answers for the aforementioned questions is not entitled to the prayer made in this writ petition, hence, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To

1)The Secretary,
School Education Department(TRB)
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Secretariat, Fort St.George, Chennai-600009.

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+1cc to M/s. A.ROBINSON Advocate in SR. No. 79831
NBI
JS/MR.KKR/SAR.4/31.10.2017/4P-6C

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