

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.3378 of 2018 and
W.M.P.No.4133 of 2018

S.Angappan

...Petitioner

Versus

1.The State of Tamil Nadu
rep. by its Chief Secretary,
Secretariat, Fort St. George,
Chennai-9.

2. The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

3. Member-Secretary,
Teachers Recruitment Board,
College Road, Chennai-6.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in the impugned order passed by the 3rd respondent in Rc.No.12785/Com-Inst. (59)/2017 dated 03.01.2018 and quash the same and also directing the respondents to grant 20 marks to the deleted 20 questions to the petitioner which is legally entitled in connection with recruitment to the post of computer Instructor held on 24.1.2010 by 3rd respondent.

For Petitioner : Mr.V.Venkatesan

For Respondents : Mr.V.Jayaprakash Narayanan Spl.GP for R1
Mrs.P.Rajalakshmi,
Addl. Govt. Pleader for R2 and R3

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O R D E R

The Writ Petition has been filed challenging the impugned order dated 03.01.2018 passed in Rc.No.12785/Com-Inst. (59)/2017 by the 3rd respondent and to quash the same with a consequential direction, directing the respondents to grant 20 marks to the deleted 20 questions to the petitioner for which he is legally entitled to in connection with recruitment to the post of Computer Instructor held on 24.1.2010 by 3rd respondent herein, namely, the Teachers Recruitment Board.

2. Learned Counsel for the petitioner would submit that when the Teachers Recruitment Board has issued a Notification dated inviting applications from the eligible candidates for the posts mentioned in the Notification, the petitioner applied for

the same and finally, he was permitted to write the examination for the post of Computer Instructor. He has undergone both the Recruitment Test on 12.1.2010 and 24.01.2010 and failed in both the tests conducted by the Board. Since some 20 questions were found to be wrong, the Higher Secondary School Computer Teachers Association represented by its President, 99/4 Mariamman Koil Street, Serndamaram, Sankarankoil Taulk, Tirunelveli District filed a Writ Petition in W.P.No.7567/2010 seeking a direction to declare the examination conducted on 24.01.2010 as null and void since large number of questions set by the examiners were either wrong or ambiguous. However, this Court dismissed the same by order dated 13.04.2010. Aggrieved thereby, the Computer Teachers Association filed W.A.No.837/2010 before a Hon'ble Division Bench of this Court and the Division Bench by its judgment dated 20.12.2012 again confirmed the order passed by the learned Single Judge, however, while dismissing the appeal directed the Teachers Recruitment Board to delete the 20 questions which are Questions Nos.7,9, 11, 12, 21, 41, 43, 45, 51, 53, 56, 66, 71, 74, 91, 110, 120, 139, 146 and 148. Aggrieved against the same, the Higher Secondary School Computer Teachers Association approached the Hon'ble Supreme Court by way of filing Special Leave to Appeal (Civil) No.1408/2013.

3. The learned Counsel for the petitioner further submitted that the Special Leave to Appeal was withdrawn by the petitioner. Thereafter, a detailed representation dated 30.01.2011 was given by the Higher Secondary School Computer Teachers Association to the Chief Secretary to Government, Department of School Education, Fort St. George, Chennai-9. Once again, the impugned order dated 03.01.2018 has been passed without granting any mark to any of the 20 questions. Therefore, a direction be issued to award 20 marks to the wrong questions framed and set up by the Teachers Recruitment Board, it is pleaded.

4. Heard Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the 1st respondent and Mrs.P.Rajalakshmi, learned Additional Government Pleader appearing for the respondents 2 and 3.

5. This Court hardly finds any justification to interfere with the impugned order dated 03.01.2018 passed by the Member-Secretary, Teachers Recruitment Board, College Road, Chennai-6, the 3rd respondent herein for the following reasons. Firstly, the same issue was already raised in W.P.No.7567/2010 which was filed seeking to issue a Writ of Declaration declaring the examination for recruitment to the post of Computer Instructors held on 24.1.2010 and directing the 2nd respondent to conduct a re-examination for such candidates at the earliest and this Court, by Order dated 13.4.2010 refused to entertain the said Writ Petition and dismissed the writ petition holding that it was not open to the petitioner Association to bring such a challenge, especially, in an examination conducted for individual candidates. They have no locus standi to bring the action. Being aggrieved against the said order, W.A.No.837/2010 was filed before this Court. During the pendency of the appeal

before the Division Bench of this Court, this Court sent the alleged question papers to the Indian Institute of Technology, Madras for scrutiny and in turn, the Indian Institute of Technology submitted a report stating that 20 questions were wrongly framed. On the basis of the report submitted by the Indian Institute of Technology, Madras, the Division Bench of this Court disposed of the Writ Appeal on 20.12.2012 by issuing a direction to fill up the vacancies based on the qualifying marks in the remaining questions and to delete 20 questions from the total number of 150 questions. The relevant portion of the said order is given as under :

'57. Disposition :

(i) The Teachers Recruitment Board is directed to delete the following 20 questions out of the total number of 150 questions:

Question Nos.7, 9, 11, 12, 21, 41, 43, 45, 51, 53, 56, 66, 71, 74, 91, 110, 120, 139, 146 and 148.

(iii) The Teachers Recruitment Board is further directed to judge the proficiency of 667 Computer Instructors on the basis of the answers given by them for the remaining 130 questions. Those who had secured 65 marks and above (50% and above) out of 130 marks would be held to have qualified and the remaining candidates would be treated as failed. Such exercise shall be completed by 31 January 2013.

(iii) The State is directed to comply with the direction of the Supreme Court in Civil Appeal No.4187 of 2009 by filling up the remaining vacancies from open market and by following the rules of reservation and in accordance with the relevant rules, as expeditiously as possible and in any case on or before 15 May 2013.

50. The Writ Appeal and the Writ Petitions are disposed of with the above direction. No costs. Consequently, connected writ petitions are closed.'

As against the said order, Special Leave to Appeal (Civil) No.1408/2013 was unsuccessfully filed and the same was dismissed as withdrawn on 28.01.2013 granting liberty to the petitioner Association to approach the Government for appropriate relief.

6. When the issue has been concluded as mentioned above, the petitioner Association once again cannot reopen the very same issue for the reason that they have got a liberty to re-agitate the same. After deleting 20 wrong questions, a direction was given to the Teachers Recruitment Board to judge the proficiency of 667 Computer Instructors on the basis of the answers given by them for the remaining 130 questions with a further direction to the State to fill up the remaining vacancies from open market by following the rules of reservation. Therefore, when the issue relating to the 20 wrong questions was already decided and the vacancies were directed to be filled up, filing of this Writ petition is wholly misconceived.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-9.

2. The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

3. Member-Secretary,
Teachers Recruitment Board,
College Road, Chennai-6.

+1cc to Government Pleader Sr.No.12182

+1cc to Mr.V.Venkatesan, Advocate Sr.No.12226

sm:9.4.2018

W.P.No.3378 of 2018

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