

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM :

THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.Nos.25756, 25761 & 25955 of 2017 and
W.M.P.Nos.27178, 27179, 27183, 27184 & 27532 of 2017

N.Pushpam ... Petitioner
in W.P.No.25756 of 2017

S.Sivakumar ... Petitioner
in W.P.No.25761 of 2017

M.Thanigaiarasu ... Petitioner
in W.P.No.25955 of 2017

Vs

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai - 600 006.

2. The Expert Committee, (Chemistry)
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai - 600 006.

.... Respondents
in W.P.Nos.25756 & 25761 of 2017

1. Teachers Recruitment Board,
Rep. by its Chairman,
D.P.I. Campus,
E.V.K. Sampath Maaligai,
College Road,
Chennai - 600 006.

2. The Director of School Education,
D.P.I. Campus,
E.V.K. Sampath Maaligai,
College Road,
Chennai - 600 006.

.... Respondents
in W.P.Nos.25955 of 2017

Prayer in W.P.No.25756 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to award marks for the questions in Serial 'C' question numbers 3, 18, 37, 40, 53, 54, 64, 70, 74, 77, 83, 87, 89, 90, 95, 107 and 109 and consequently direct the 1st respondent to call the petitioner to the Certificate Verification for the post of Post Graduate Assistants (Chemistry) within the stipulated period.

Prayer in W.P.No.25761 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to award marks for the questions in Serial 'D' question numbers 2, 4, 5, 7, 9, 13, 33, 34, 52, 55, 65, 73, 85, 87, 94, 99, 108 and consequently direct the 1st respondent to call the petitioner to the Certificate Verification for the post of Post Graduate Assistants (Chemistry) within the stipulated period.

Prayer in W.P.No.25955 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of declaration to declare the Final Key Answer provided for the question paper in Chemistry CDE 2017 Booklet Series 'C' pertaining to Question Nos.53, 54, 70, 89, 94, 107 and 109, provided by the 1st respondent as incorrect and consequently direct the 1st respondent to award marks for the above said questions and consequently declare the petitioner bearing Roll No.17PG30050244, to have passed in the written examination and allow him to participate in the Certificate Verification within the period that may be stipulated by this Hon'ble Court.

For Petitioners : Ms.M.Malar
in W.P.Nos.25756 & 25761 of 2017
Mr.K.Selvaraj
in W.P.No.25955 of 2017

For R1 and R2 : Mr.K.Karthikeyan
Government Advocate
in all the three writ petitions

COMMON ORDER

The relief sought for in the writ petitions in W.P.Nos.25756, 25761 and 25955 of 2017, is for a direction to direct the 1st respondent to award marks to the respective petitioners, for the questions in Serial 'C' question numbers 3, 18, 37, 40, 53, 54, 64, 70, 74, 77, 83, 87, 89, 90, 95, 107, 109, for the questions in Serial 'D' question numbers 2, 4, 5, 7, 9, 13, 33, 34, 52, 55, 65, 73, 85, 87, 94, 99, 108 and for the questions in Series 'C' question numbers 53, 54, 70, 89, 94,

107 and 109, respectively, and consequently direct the 1st respondent to call the writ petitioners to the Certificate Verification for the post of Post Graduate Assistants (Chemistry).

2. In W.P.No.25955 of 2017, the writ petitioner, in addition to the common relief (stated supra), has also sought for issuance of a writ of declaration, declaring the Final Key Answer provided for the question paper in Chemistry CDE 2017 Booklet Series 'C' pertaining to Question Nos.53, 54, 70, 89, 94, 107 and 109, provided by the 1st respondent as incorrect and consequently declaring the writ petitioner bearing Roll No.17PG30050244, to have passed in the written examination and allow him to participate in the Certificate Verification.

3. The grievances of the writ petitioners are that certain questions formulated in the question paper are erroneous and therefore, they are entitled for the additional marks in respect of those erroneous questions. The recruitment is for the appointment to the post of Post Graduate Assistants (Chemistry).

4. The learned counsel appearing on behalf of the writ petitioners states that the questions and the answers are erroneous and therefore, the writ petitioners are entitled for grant of additional marks. Number of such writ petitions were already filed before this Court. When the question raised, regarding the validity of the question paper is tested, the Government has appointed an Expert Committee and the Expert Committee had gone through the questions and answers with reference to the original text books. The Expert Committee, so appointed had prepared the key answers and based on the report submitted by the Expert Committee appointed by the Government, all the answer sheets of the writ petitioners were rechecked and suitable additional marks were granted, wherever applicable.

5. Thus, the learned Government Advocate appearing for the respondents is of an opinion that the grievances of the writ petitioners were redressed on account of the fact that the Expert Committee was appointed who in turn submitted a report and based on the report, answer sheets were rechecked and marks were allotted suitably before issuing the final selection list. After submission of the report by the Expert Committee and after undertaking the process of rechecking, the final selection list was published and the selected persons were appointed and now they have joined duty.

6. Under these circumstances, this Court is of an opinion that the discrepancies now once again raised by the writ petitioners cannot be considered in view of the fact that the

Experts appointed in this regard have already submitted their report in detail which was considered with reference to the question paper and marks were awarded suitably. Even after rechecking and awarding marks wherever applicable, the writ petitioners are not within the zone of consideration. Thus, they were not selected. Even now, the learned counsel for the writ petitioners states that certain questions were not properly evaluated and the errors were not rectified.

7. This Court is of the considered opinion that the arguments advanced by the writ petitioner cannot be entertained, in view of the fact that this Court cannot reserve the powers of the Expert Body which conducted the process of evaluating the question papers and answer sheets and consequently, the answer sheets were rechecked by the authorities competent based on the report submitted by the Expert Committee in this regard. When an expert Body was appointed and on receipt of a report from such an expert committee, then the same is being on all, unless it is disputed on the grounds of malafides or malpractices. In the present case on hand, admittedly, an Expert Committee was appointed by the respondents, who in turn submitted the report considering all the disputed question and key answers and thereafter, the answer sheets of the petitioners were also re-evaluated and wherever applicable, the marks were granted. Thus for all purpose, the irregularities noticed was brought to the knowledge of the authorities by the writ petitioners were resolved by following the procedures contemplated. Under these circumstances, the claim of the writ petitioners for providing marks by the Courts, cannot be entertained at all.

8. The learned counsel for the writ petitioners states that the Madurai Bench of Madras High Court, passed an order in W.P.(MD) No.15953 of 2017 dated 20.09.2017. In the said judgment, direction was issued to grant each one mark to the following questions in the Booklet Series 'A' namely 10, 14, 43, 63, 72 and 99, as per the conclusions reached therein only in respect of the petitioners.

9. The above judgments of the Court cited by the petitioners state that one mark is granted, in respect of the disputed question numbers, only in respect of the petitioners. Thus, one additional mark granted was confined only to the petitioners alone. Certain orders passed by the Court considering the facts and circumstances can never be expanded continuously for all the students, who filed the writ petitions. Courts, under these circumstances, are incompetent to award marks. Courts cannot be considered as an Expert body. The scope of judicial review in this regard are certainly limited. The power of judicial review can be exercised only in the event of malpractices, fraud, corrupt activities or otherwise. When some mistakes were noticed by the candidates or by the authorities,

thereafter, the authorities had rightly appointed an Expert Committee to go into the correctness of the questions and the key answers. When such an effort was taken and based on the report submitted by the expert committee, the answer sheets of the petitioners were re-evaluated and therefore, the question of awarding one additional mark further would not arise at all. Thus, the Court orders, where, based on the certain facts and circumstances cannot be followed as a precedent. Precedence from the judgments can be culled out only in respect of legal principles settled. It is not as if all the judgments can be followed as a precedents. Those judgments, where the legal principles are settled, then alone, the same can be followed as a precedent. However, on a perusal of the judgments cited by the learned counsel for the petitioner, the relief was granted only in respect of petitioners therein, who, has a special case and therefore, the same cannot be followed as a precedent in all cases. The Courts cannot interfere in the process of selection by awarding additional marks without any justification. Under these circumstances, this Court is of an opinion that the judgments cited by the learned counsel appearing for the petitioner cannot be relied upon for the purpose of granting one mark extra to these writ petitioners.

10. However, it is contended by the learned Government Advocate that such marks were granted to all the candidates based on the report submitted by the Expert committee and the answer sheets were rechecked with reference to the Expert Committee's report, in respect of the candidates including the writ petitioners.

11. Thus, the writ petitioners are also benefited from and out of the reports submitted by the Expert Committee and even, thereafter they were not selected. Those candidates who were not selected even after granting of additional marks, based on the report submitted by the Expert Committee, cannot maintain the writ petition, as they were not within the zone of consideration.

12. The pleadings of the writ petitioners that one additional mark is to be granted to the writ petitioners so that they will be selected deserves no merit consideration. Such an additional mark can never be granted by the High Court, contrary to the opinion of the Expert Committee. Now that, the new report is available and the same is to be applied to all the candidates and in the event of any discrepancy or errors in the question paper or in any answers, such a additinal marks are to be granted to all the candidates and in the event of granting marks to the candidates, then the selection list can be settled uniformly.

13. Thus, the respondents shall recheck the answer sheets of all the writ petitioners once again and if there is any discrepancy in this regard, the same shall be settled and in the event of any denial of marks with reference to the report of the Expert Committee, the same shall be considered in respect of the writ petitioners also. However, the relief as such sought for grant of mark cannot be considered in the present writ petition.

14. With these observations, these writ petitions stand disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

sk/mkn

To

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
DPI Compound,
College Road,
Chennai - 600 006.
2. The Expert Committee, (Chemistry)
Teachers Recruitment Board,
4th Floor, EVK Sampath Maligai,
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3. The Director of School Education,
D.P.I. Campus,
E.V.K. Sampath Maaligai,
College Road,
Chennai - 600 006.

+2cc to M/s.M.Malar, Advocate SR.No.62700,62701

+1cc to M/s.K.Selvaraj, Advocate SR.No.62455

+3cc to Government Pleader SR.No.62583,62584,62585

W.P.Nos.25756, 25761 &
25955 of 2017

GMV(10;]/10/2018)