

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 24.10.2018	Delivered on 02.11.2018
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CORAM:

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**

and

THE HONOURABLE MR. **JUSTICE R.MAHADEVAN****Review Application (Writ) No.169 OF 2016**

G.Vinayagamoorthi : petitioner
versus

1 STATE OF TAMILNADU
REP. BY THE PRINCIPAL SECRETARY TO
GOVERNMENT SCHOOL EDUCATION DEPARTMENT
FORT ST GEORGE CHENNAI-9

2 THE TEACHERS RECRUITMENT BOARD
REP. BY ITS CHAIRMAN 4TH FLOOR E.V.K.
SAMPATH MAALIGAI COLLEGE ROAD CHENNAI-6

3 R.JOHSY RANI

4 I.SARASWATHI

5 V.DHINESH KUMAR

6 B.PRAMELA

7 R.PUSHPALATHA

8 A.KAVITHA

9 S.SUBHA

10 K.PREMA

11 VAIYALIMUTHU

12 U.SURESH

13 S.THASLEEMUNNISHA

14 N.SHOBA

15 A.SUBINAYAGAN

16 I.THANGAPUSPHAM

... respondents

Petition filed to review the Order dated 20 December 2012 in WP No.17822 of 2010 and direct the Second Respondent herein to award 2 marks to the Petitioner for Question Nos. 28 and 81 in Type-C which correlates to Question Nos.148 and 91 in Type A and thereby declare the Petitioner as passed and consequently regularized the services of the Petitioner.

For petitioner : Mrs.Dakshayaini Reddy

For respondents : Mr.K.Karthikeyan, Government Advocate
for respondents 1 and 2.

ORDER

K.K.SASIDHARAN, J.

This review application at the instance of one of the petitioners in W.P.No.17822 of 2010, seeks review of the common judgment dated 20 December 2012 in W.A.No.837 of 2010 etc. batch, which was confirmed by the Hon'ble Supreme Court in SLP No.1408 of 2013.

The facts:-

2. The State of Tamil Nadu through the Teachers Recruitment Board conducted second qualifying examination for selection of computer instructors, who have secured marks between 35% and 49% in the first examination, pursuant to the order dated 19 November 2009 in I.A.No.2 to 6 and 7 of 2009, in C.A.No.4187 of 2009. In the second qualifying examination, though 792 candidates took part, only 125 secured 50%. The remaining 667 computer instructors were declared failed. The Writ

Petitions filed by the non selected candidates were dismissed. During the currency of the intra court appeal filed by the unsuccessful petitioners, the petitioner and 14 others filed independent Writ Petitions in W.P.No.17822 of 2010, challenging the results of the written examination and for a direction to conduct special recruitment test once again and for regularization of their service.

3. The intra court appeals and the connected Writ Petitions were disposed of by the Division Bench by judgment dated 20 December 2012. The Division Bench was pleased to direct the Teachers Recruitment Board to delete 20 questions out of the total number of 150 questions and to judge the proficiency of 667 computer instructors on the basis of the answers given by them for the remaining 130 questions. It was made clear that those candidates who have secured 65 marks and above, meaning thereby, 50% and above out of 130 marks alone, would be held to have qualified. The Teachers Recruitment Board, pursuant to the said direction, conducted a fresh exercise and declared the results. In the meantime, the Higher Secondary School Computer Teachers Association challenged the judgment dated 20 December 2012 in W.A.No.837/2010 before the Hon'ble Supreme Court. The Special Leave Petition was dismissed with liberty to approach the Government for appropriate relief.

4. The petitioner has come up with this review petition primarily on the ground that while deciding the Writ Petition, the counter affidavit filed by the Chairman, Teachers Recruitment Board, to the effect that the Board has awarded full marks to all the candidates who have attempted question numbers 148 was not taken note of and the same resulted in excluding question no.148 from consideration.

Submissions:-

5. The learned counsel for the petitioner contended that in case question no.148 was not deleted, the petitioner would have been selected. According to the learned counsel, since Teachers Recruitment Board has given full marks to all the candidates who have attempted question no.148, there was no need to delete the said question out of the total number of 150 questions. सत्यमेव जयते

6. The learned Government Advocate appearing on behalf of the respondents 1 and 2 contended that even after awarding marks to the disputed question, the petitioner secured only 64 marks in the final selection and as such, his candidature was rightly rejected.

Analysis :-

7. The review petition is now revolving around the question as to whether this Court was correct in deleting question No.148, in spite of the counter affidavit filed by the Teachers Recruitment Board that the Board has awarded full marks to all the candidates who have attempted question no.148. The answer to this question is found in the judgment under review. Paragraph 52 of the judgment would make the position clear.

52. The controversy raised in this matter could be resolved easily by following a fair method of assessment. There are 20 disputed questions. There is no question of giving 20 marks to all the candidates for the simple reason that most of the candidates have not made attempt to answer the questions. In case full marks are given to all the candidates, it would be a bonus even to those who have not attempted to answer even some of the questions.

8. The primary reason for deleting question no.148 was the admitted fact that most of the candidates have not made attempt to answer the said question. In case of giving full marks to the question No.148 on the ground that the key answer was not correct, it would give a premium even to those who have not made any attempt to answer the said question. The question No.148 was therefore deleted after taking into account the counter affidavit filed by the Teachers Recruitment Board to the effect that full marks was awarded to all the candidates for question

No.148 and even to those who have not answered the said question.

9. In view of the background facts, we do not find any ground made out by the petitioner to review the judgment on the ground that question No.148 was deleted without any rhyme or reason and without considering the counter affidavit filed by the Teachers Recruitment Board. No other contentions were raised by the petitioner before us. We are therefore of the view that the petitioner has not made out a case for review of the judgment within the meaning of Order 47 Rule 1 of the Code of Civil Procedure.

10. In the upshot, we dismiss the review application. No costs. Consequently, W.M.P.No.29661 of 2017 is also dismissed.

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(K.K.SASIDHARAN, J.) (R.MAHADEVAN, J.)
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K.K.SASIDHARAN, J.

and

R.MAHDEVAN, J.

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P.D. Order in
Rev.Appl (Writ) No.169/2016

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