

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 02..08..2018
Orders Pronounced on: 09..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN
and
THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition Nos.19276 and 19281 of 2018
and
W.P.No.19456 of 2018
&
W.M.P.Nos.22884 and 22885 of 2016

K.Aarthi

..... Petitioner in W.P.No.19276 of 2018

G.Ravi Shankar

..... Petitioner in W.P.No.19281 of 2018

D.Balasubramanian

..... Petitioner in W.P.No.19456 of 2018

-Versus-

The Tamil Nadu Public Service Commission,
Rep. by its Secretary / Chairman,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai 600003.

..... Respondent in all Writ Petitions

Writ Petition No.19276 of 2018: This writ petition filed under Article 226 of The Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to admit the petitioner with Register No.010005076 appeared for the Civil Judge preliminary exam conducted on 9.6.2018 and consequently directing the respondent to allow her to write the Main Examinations to be held on 10.11.2018 and 11.8.2018 based on the revalued marks awarding 20.5 grace marks.

Writ Petition No.19281 of 2018: This writ petition filed under Article 226 of The Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to admit the petitioner with Register No.010001023 appeared for the Civil Judge Preliminary Exam conducted on 09.06.2018 and consequently directing the respondent to allow him to writ the Main

Examination to be held on 10.08.2018 and 11.08.2018 based on the revalued marks awarding 20 grace marks.

Writ Petition No.19456 of 2018: This writ petition filed under Article 226 of The Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent commission with respect to publication of final key answers published in their web site on 05.07.2018 with reference to question Nos 8, 19, 25, 26 and 80 in Series CJ /18 and consequently direct the respondent to award 7.5 marks to the petitioner [Register No.190001299] and declare him as PASS in the preliminary examination conducted by the respondent for the post of Civil Judge under Notification No.08/2018 dated 09.04.2018.

For Petitioner (s)	:	Mr.Ilayaraja Kandaswamy for petitioner in W.P.No.19276 of 2018
	:	Mr. S.Pattabiraman for petitioner in W.P.No.19281 of 2018
	:	Mr.A.Sundaravadhanan for petitioner in W.P. No.19456 of 2018
For Respondent (s)	:	Selvi. C.N.G.Niraimathi for respondent in all Writ Petitions

COMMON ORDER

V.BHARATHIDASAN.J.,

Challenge in these writ petitions is to the correctness of the Key Answers provided by the Tamil Nadu Service Commission [in short 'the respondent Commission'] for certain questions in the preliminary examination conducted to the post of Civil Judge in the Tamil Nadu State Judicial Service and also on the ground that Tamil Translation for certain questions were found to be either incorrect or confusing.

2. Since the relief sought for in these writ petition are identical and the issues involved are also one and the same, all the writ petitions were heard together and are being disposed of by this common order.

3. In order to appreciate the points raised before us, it is necessary to cull-out the essential facts which lead to the filing of the writ petition:-

(i) By Notification No.08/2008 dated 09.04.2018, the Commission had invited online applications for direct recruitment to the post of Civil Judge in the Tamil Nadu State Judicial Service under Tamil Nadu State Judicial Service [Cadre and Recruitment] Rules, 2007 as amended. As per the notification, the selection is by way of a three stage process, consisting of (i) preliminary examination, (ii) main written examination and (iii) viva voce test. Those candidates who clear the preliminary examination are entitled to appear in the main examination. The minimum pass mark in the preliminary examination is 30 for SCs/SC(A)s and STs, 35 for MBCs/DCs/BC (OBCM)s and BCMS and 40 for other categories.

(ii) The question paper for preliminary examination consists of 100 objective type questions with multiple choice answers which carried 100 marks. All questions carry equal marks and 1/2 (half) mark will be deducted for each incorrect answer. The preliminary examination was conducted on 09.06.2018.

(iii) The petitioners had appeared for the preliminary examination. After the preliminary examination was over, tentative key answers were published on 12.06.2018 by the TNSPC. On verification of the key answers, the petitioners found that key answers given for many questions were found to be incorrect. According to the petitioner in W.P.No.19281 of 2018 has sent his representation to the Commission, but, it got rejected by the Commission holding that the key answers provided by the Commission are correct. Thereafter, the Commission had published final key answers in the website on 05.07.2018. The result of the preliminary examination was published on 11.07.2018 by the Commission and the petitioners were not selected.

(iv) The petitioner in W.P.No.19276 of 2018 challenged the correctness of the key answer in respect of Question Nos.9, 22, 24, 32, 68 and 79; challenged the Question Nos.7, 15, 16, 29, 38, 39, 50, 72, 81 and 82 on the ground that the Tamil translation were found confusing; and challenged the Question No.4 on the ground that framing of question itself was wrong.

(v) The petitioner in W.P.No.19281 of 2018 challenged the correctness of the key answer in respect of Question Nos.22, 35, 43, 45, 56 and 59; challenged the Question Nos.15, 16, 26, 61, 64, 65, 72, 73, 74 and 97 on the ground that the Tamil translation were found confusing; and challenged Question (relating to Key Answer No.43) on the ground that framing of

question itself was wrong.

(vi) The petitioner in W.P.No.29456 of 2018 challenged the correctness of the key answers provided for Question Nos.8, 19, 25, 26 and 80.

4. The grievance of the petitioners is that the key answer provided by the Commission for many questions are incorrect and many of the questions were found confusing/wrong questions. The representation given by one of the petitioners in this regard to the Commission was not considered favorably, therefore, the petitioners are before this court with the present writ petitions seeking additional proportionate mark to compensate them.

5. The respondent Commission filed a detailed counter affidavit inter alia contending that after the preliminary examination was over, tentative key answers were uploaded on 12.06.2018 in the web-site of the Commission and aggrieved candidates were required to submit their objections, if any, to the key answers within a period of 7 days along with documentary proof to support their claim. Pursuant to the same, the respondent received a total number of 127 representations from the candidates in respect of 51 questions. All such representations were forwarded to the High Court and the High Court after having considered the objection reverted to the commission stating that the key answers provided to by the respondent Commission are correct excepting for Question No.21 for which , according to the High Court, option 'C' is the correct answer instead of option 'B' as found in the tentative key answers uploaded on 12.06.2018. Thereafter, according to the respondent, all the papers were valued based on the key answers finalized by the High court and the final key answers were also uploaded in the web-site of the Commission on 05.07.2018.

6. It is further contended by the respondent that even if credit marks are given as claimed by the respective candidates, still they will not obtain the minimum qualifying marks prescribed for the reserved categories and hence, they are not entitled to be short-listed for admission to the next stage of selection process.

7. I have heard the counsel appearing for the respective petitioner and the learned standing counsel appearing for the respondent Commission and also perused the records carefully.

8. The respective counsel appearing for the petitioners in W.P.Nos.19276 and 19281 of 2018 submitted that after the preliminary examination was over, key answers were uploaded in

the web-site of the commission and on going through the same, the key answer provided for six questions were found to be wrong and Tamil translation done for 10 questions were found confusing which resulted in choosing wrong answers by the candidates. They would further submit that insofar as Q.No.4 is concerned, framing question itself was wrong.

9. The learned counsel for the petitioner in W.P.No.19456 of 2018 submitted that the key answer given for five questions were found to be wrong.

10. The learned counsel appearing for the respective petitioner therefore submitted that on account of wrong key answers/question found being confession/wrong questions, the petitioners could not secure the mark prescribed for a pass in their respective category and therefore, if credit marks are awarded as claimed by the petitioners for the questions pointed out by them, they would get pass mark as prescribed for the respective category and they will be qualifying for main examinations.

11. The learned counsel for the respective petitioner further add that as per the notification, the candidates for the admission to the main examination would be short listed at the ratio of not exceeding ten times of the number of vacancies following the rule of reservation, but, the respondent Commission has selected 675 candidates only as against approximate vacancies of 320 for admission to the main examinations which is against the notification. Therefore, the learned counsel prayed for a direction to the respondent Commission to give credit marks to the petitioners and consequentially admit them for main examinations.

12. Per contra, the learned counsel appearing for the respondent Commission would vehemently contend that after the preliminary examination was over, tentative key answers were uploaded in the web-site of the Commission and the candidates were required to submit their objections if any to the key answers. Many representation were received in respect of 51 question and all such representations were sent to the High Court for opinion and the High Court upon considering the same held that excepting key answer for Question No.21, all other key answers provided in the web-site of the Commission were correct and based on such opinion of the High Court, the answer sheets for the preliminary examination were valued and 1 mark was awarded for the candidates who have attended the question No.21.

13. The learned standing counsel further submitted placing reliance on the recent judgement of the Hon'ble Supreme Court that the court should presume that the key answers given by the

examination authorities are correct and even if any doubt arises, the benefit of such doubt should go to the examination authorities.

14. The learned standing counsel lastly submitted that as per Notification issued by the respondent commission, the minimum marks prescribed for a pass in the preliminary examination is 30 for SCs/SC(A)s and STs, 35 for MBCs/DCs/BC (OBCM)s and BCMs and 40 for other categories. Admission to the main examinations will be short-listed as decided by the Commission at the ratio not exceeding 10 times of number of vacancies following the rule of reservation. The candidates who have secured marks below the minimum marks prescribed for a pass in their respective category are not eligible for admission to the main examination. The number of short listed candidates for the main examination was only inconsonance with the recruitment notification. According to the learned counsel the writ petitions are devoid of merits and therefore, she prayed for dismissal of the writ petitions.

15. We have considered the rival submissions carefully and also perused the available records.

16. The main challenge in the writ petitions is to the key answer provided by the respondent Commission for some of the questions which, according to the petitioner, were found to be wrong. Now, the law on the subject is very clear and the Hon'ble Supreme Court has consistently held that the key answers provided by the examination authorities should be presumed to be correct. Even if any doubt has arisen regarding the correctness of the key answers so published, the benefit of doubt should be given to the examination authorities and the Constitutional Courts must exercise great restraint in the matters like this one and also it must be reluctant to entertain any writ petition challenging the correctness of the key answers.

17. Recently, the Hon'ble Supreme Court in *Ran Vijay Singh v. State of Uttar Pradesh*, (2018) 2 SCC 357 has held thus:

30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if

it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

[Emphasis supplied]

18. In yet another recent judgement in U.P.S.C., through its Chairman v. Rahul Singh , 2018 SCC Online SC 609, while following the decision in Ran Vijay Singh case [cited supra] the Hon'ble Supreme Court has held that the court should not normally entertain any plea challenging the correctness of the key answers. The Hon'ble Supreme Court in para 14 of the judgement has held as follows:

"14. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In Kanpur University case(supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

15. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and

after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct."

19. Admittedly, in the instant case, soon after the preliminary examination was over, tentative key answers were uploaded by the Commission in its web-site and the commission had invited objections, from the candidates who felt aggrieved by the key answers published by the respondent Commission. There were number of representation received by the Commission in respect of 51 questions and those objection were placed before the High court for verification of the objections. On verification of the key answers the Committee consisting of the experts in the legal field had found that out of 51 keys answers against which representations were received, except the key answer provided for Question No.21, all other key answers were correct. Insofar as the wrong key answer for Question No.21 is concerned, according to the learned standing counsel for the Commission, it was suggested by the Committee to give full mark to the candidates who had attended the question and the Commission accordingly valued the OMR sheets.

20. In the light of the law laid down by the Hon'ble Supreme Court in this regard, we could safely presume that the key answers given for Questions under challenge were correct and this court cannot take the role of the experts and verify the correctness of the answers. Even assuming that there exists any doubt regarding key answers for some questions, benefit arising out of such doubt should be given to the examination authorities and not to the candidates. Further, the petitioner in W.P.No.19281 of 2018 alone had sent his objection regarding the key answers for certain questions and the other two petitioners have not made any such representation to the respondent Commission. The representation sent by the petitioner in W.P.No.19281 of 2018 was considered and rejected by the respondent Commission after having obtained the opinion of the Committee of the High Court consisting of the experts in the legal field. Thus, the contention of the learned counsel for the petitioner in this regard cannot be countenanced.

21. Next, the learned counsel for the respective petitioner contended that there are ambiguities in the Translation of questions from English to Tamil version and the same led confusion in the mind of the candidates, therefore, they were not able to opt the correct answer for the confusing/wrong questions. This contention also cannot be countenanced for the simple reason that in the Question Paper itself, it has been clearly stated that in all matters, in case any doubt, the English version is final. Therefore, it is not now open to the petitioners to claim that there were ambiguities in the Tamil Translation for some questions and due to that some confusion have arisen.

22. Insofar as the last contention of the learned counsel for the respective petitioner, even though in the notification it was stated that the candidates to the main examinations would be short listed at the ratio not exceeding 10 times of number of vacancies, it is only the maximum ratio, ultimately, it is for the respondent Commission to decide and short-list the candidates as per the marks secured by them in the preliminary examinations and there is no obligation for the respondent commission to short list the candidates at 1:10 ratio. Therefore, this contention of the learned counsel for the petitioners is also liable to be rejected.

23. For the foregoing discussions, we find no merits in the writ petition and the same deserves only to be dismissed.

24. In the result, the writ petitions are dismissed. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Secretary / Chairman,Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,Park Town, Chennai 600003.

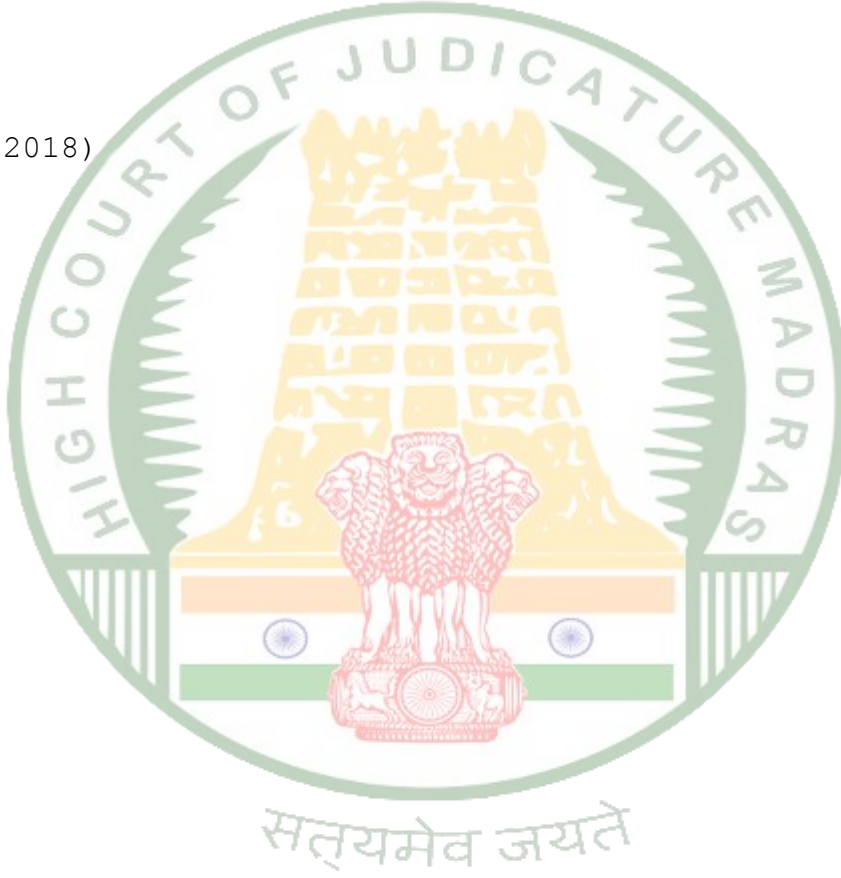
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+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No.54829

+1cc to Mr.Ilayarajakandasamy, Advocate, S.R.No.54802

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and
Writ Petition
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NM(CO)
GSP(06/09/2018)



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