



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI

WA (MD) No.256 to 259 of 2018
and

C.M.P.(MD) Nos.1531 to 1537 of 2018

1. State of Tamil Nadu,
rep. By its Secretary to Government,
Department of Higher School Education,
Fort St. George, Chennai - 9.

2. The Chairman,
Teachers Recruitment Board,
EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 6.

... Appellants in
W.A.256/2018

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 6.

2. The Expert Committee (Chemistry)
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 6.

... Appellants in
W.A.257/2018

1. The State of Tamil Nadu,
rep. By its Secretary
School Education Department,
Secretariat, Chennai.

2. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai - 6.

... Appellants in
W.A.258 & 259/2018

**Versus**

A.Maria Selvam
1.K.Kudiarasan
2.G.Senthilkumar
3.M.Eswaran
4.V.Jayalakshmi

... Respondent in W.A.(MD)No.256/2018

... Respondent in W.A.(MD)No.257/2018

J.Muthupandi
E.Geethakumari

... Respondent in W.A.(MD)No.258/2018

... Respondent in W.A.(MD)No.259/2018

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 20.09.2017 made in W.P.(MD) No.15953, 16068, 16163 and 16164 of 2017 respectively on the file of this Court.

Prayer in WP(MD)No.15953/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus directing the 2nd respondent provide additional marks to the petitioner in connection with question No.14,15,22, 45,72,102,103, for the post of PG Assistants (Chemistry) in Tamil Nadu Higher Secondary School.

Prayer in WP(MD)No.16068/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the 1st respondent to award marks for the questions in Serial A question numbers 3, 10, 15, 22, 25, 43, 44, 63, 72, 79, 99, 103, 110 and consequently direct the 1st respondent to call the petitioners to the certificate verification for the post of Post Graduate Assistants (Chemistry) within the stipulated period.

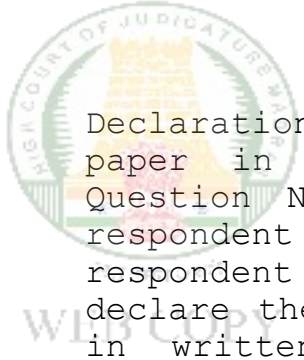
Prayer in WP(MD)No.16163/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series A, pertaining to Question Nos.25, 43, 103, 3, 44, 63 ,79 & 103 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG06050334 to have passed in written examination and allow him to participate in the certificate verification within the period that may be stipulated by this Hon'ble Court.

Prayer in WP(MD)No.16164/ 2017 :

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of



Declaration declaring the final key answer provided for the question paper in Chemistry CDE-2017, Booklet series A, pertaining to Question Nos.25, 43, 103, 3, 44, 63 & 79 provided by the 2nd respondent as incorrect and consequently to direct the 2nd respondent to award marks for the above said questions and to declare the petitioner bearing Roll No.17PG08050382 to have passed in written examination and allow him to participate in the certificate verification within the period that may be stipulated by this Hon'ble Court.

For all Appellants : Mr.V.R.Shanmuganathan, Spl.G.P.

For Respondent in

W.A.256/2018

: Mr.Venkatesan

W.A.257/2018

: Mr.K.Rajeshwaran

W.A.258/2018

: Mr.Mahaboob Authiff for
M/s.Ajmal Associates

W.A.259/2018

:

COMMON JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J)

These appeals have been preferred by the State challenging the common order passed in W.P.(MD) No.15953 of 2017 etc. batch dated 20.09.2017. This Court had considered the correctness of the said decision in W.A.(MD) No.194 of 2018 batch dated 16.02.2018 and disposed of the appeals by the said judgment. The operative portion of the said judgment reads as follows:

"4. The learned Special Government Pleader appearing for the appellants would contend that the jurisdiction of the Court to undertake an exercise to invite subject experts to reevaluate to furnish key answers was specifically canvassed by him before the writ Court. However, we find in the impugned order passed in the writ petition, the said legal issue has not been dealt with. Be that as it may, it has to be seen as to whether this Court should undertake an exercise to test the correctness of the order in the writ petitions. We are of the considered view that the said exercise is not required on account of the peculiar facts and circumstances which has arisen after the writ petitions were disposed of. Be it noted that though the writ petitioners contended that the key answers for several questions were incorrect, the Court granted relief by directing the appellants to award one mark each to the question Nos.14, 43, 63 and 72 respectively for only six petitioners and in respect of the other questions, the claim made by the writ petitioners were negatived. Therefore, after the



decisions rendered in the writ petitions, though there were 16 writ petitioners, it appears that only six of them would come within the zone of consideration namely J.Muthu Pandi, G.Santhi, S.Selvarani, S.Chandramary, T.Mariamammal and A.Mari Selvam. Therefore, we hold that the order passed in the writ petitions need not be disturbed as the relief accrued only to six of the writ petitioners. That apart, we note that though several number of vacancies were notified, only 92 candidates have been found to be eligible and have joined. Therefore, the relief granted in the writ petitions can be extended to the aforementioned six writ petitioners alone.

5. The learned Special Government Pleader expressed an apprehension that the order passed in the writ petition would be a precedent for subsequent cases as well. There need not be any apprehension in this regard as this Court will make proper observation and direction in this order. That apart, as noted above, the writ Court has not decided the jurisdictional issue which has been specifically pleaded in the counter affidavit filed in the writ petitions and stated to have been argued by the learned Special Government Pleader before the writ Court. Thus, necessarily the legal issue has to be left open and the order passed in the writ petition cannot be treated as a precedent nor could be extended to other persons, who participated in the same selection process and should be confined only to six of the writ petitioners, who are stated to come within the zone of consideration. Thus, for the above reasons, while confirming the order passed in the writ petition, we clarify that the directions/ methodology adopted by the writ Court cannot be treated as a precedent and the effect of the order impugned cannot be extended to any other candidates, except those six candidates whose name has been mentioned and the selection process have already been completed, no other new candidate, who has been unsuccessful can come before this Court pleading similar relief. Accordingly, these writ appeals stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

6. Since the learned Senior counsel for the petitioner has stated that six of the writ petitioners as mentioned above have come within the zone of consideration and have also participated in the certificate verification, ie., the orders of appointment shall be issued to the six writ petitioners namely J.Muthu Pandi, G.Santhi, S.Selvarani, S.Chandramary, T.Mariamammal and A.Mari Selvam within a period of six weeks from the date of receipt of a copy



of this order."

2. Following the same, in our considered view, these appeals come fall within the zone of consideration. Therefore, the benefit, which has accrued to them on account of re-evaluation exercise done by the Court to enure the benefit to the said persons, whose names have been mentioned above.

3. In the light of the above, these appeals stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Higher School Education,
Fort St. George, Chennai - 9.

2. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 6.

3. The Expert Committee (Chemistry)
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
DPI Compound, College Road,
Chennai - 6.

+ 2 CC TO Mr.K.RAJESHWARAN, ADVOCATE IN SR No. 50698
+ 1 CC TO Mr.R.VENKATESAN, ADVOCATE IN SR No. 50370
+ 2 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 50633, 50634

ARUL

TE/CVC/SAR-4 : 09/03/2018 : 5P/9C

Judgment made in
WA (MD) No.256 to 259 of 2018 and
C.M.P. (MD) Nos.1531 to 1537 of 2018
22.02.2018