

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27..02..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

&

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.5358 of 2019

V.Chitrakavitha

... Petitioner

-Versus-

1.The Secretary,
Tamil Nadu Public Service Commission,
V.O.C. Nagar, Park Town, Chennai 600003.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
V.O.C. Nagar, Park Town,
Chennai 600003.

3.The Registrar General,
High Court of Judicature at Madras,
Chennai 600104.

4.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Law Department, Fort St. George,
Chennai 600009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd respondent to revalue the petitioner's answer sheet in Law Papers I and II in the Main Examinations for the post of Civil Judges under Notification No.8/2018 dated 09.04.2018.

For Petitioner

: Mr.G.Surya Narayanan

For Respondent(s)

: Ms.C.N.G.Niraimathi for
R1 and R2

Mr.B.Vijay, Standing
Counsel for R3

Mr.E.Manoharan, AGP for
R4

ORDER

This writ petition has been filed seeking a direction to the 2nd respondent in the nature of mandamus directing him to revalue the petitioner's Answer Sheet in Law Papers I and II in the Main Examinations conducted for the post of Civil Judges as per Notification No.8/2018 dated 09.04.2018.

2. The case of the petitioner is that, pursuant to the notification issued by the 1st respondent calling for application for direct recruitment to the post of Civil Judges in the Tamil Nadu State Judicial Services, she had applied and she got qualified in the preliminary examination. Thereafter, she was admitted to the main examinations which were held on 11.08.2018 and 12.08.2018. She had done very well in the main examinations. She was confident enough that she would get through in the main examinations with good marks and she was waiting for the results. When the results were declared, she found that she had secured only pass marks in Law Paper-I in the main examinations. According to the petitioner, when she obtained a copy of the answer sheet in Law Paper-I, she found that the answer sheet was not properly evaluated and she hoped that she would likely to get 10 marks more than the marks awarded to her, if revaluation of the answer sheet is done. But, since there is no provisions in the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 for revaluation of answer sheets, she has no other go except to approach this court by way of the instant writ petition invoking Article 226 of the Constitution seeking for a mandamus to the 2nd respondent for revaluation of the Law Paper-I in the main examinations.

3. We have heard the learned counsel for the petitioner and the learned standing counsel for the 1st respondent - TNPSC, learned standing counsel for the 3rd respondent and the learned Addl. Government Pleader for the 4th respondent and also perused the records carefully.

4. The law relating to revaluation of the answer sheet is now well-settled. In absence of any provisions in the relevant service rules, request for revaluation of the answer sheet cannot be entertained.

5. In *Pramod Kumar Srivastava v. Bihar Public Service Commission*, (2004) 6 SCC 714, the Hon'ble Supreme Court has held as follows:-

"7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a

provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks."

6. In *Himachal Pradesh Public Service Commission v. Mukesh Thakur*, (2010) 6 SCC 759, the Hon'ble Supreme Court has held as follows:-

24. The issue of revaluation of answer book is no more *res integra*. This issue was considered at length by this Court in *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth* [Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth, (1984) 4 SCC 27], wherein this Court rejected the contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/ revaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision."

7. In *Sahiti v. Dr.N.T.R. University of Health Sciences* (2009) 1 SCC 599, the Hon'ble Supreme Court has held as follows:-

"26. Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation."

8. Recently when an issue of moderation of marks and revaluation of answer scripts relating to Delhi Judicial Services came up for consideration, the Hon'ble Supreme Court

Taniya Malik v. Registrar General of the High Court of Delhi, 2018 (3) SCALE 64, has held as follows:-

"17. In Mukesh Thakur [H.P. Public Service Commission v. Mukesh Thakur, (2010) 6 SCC 759 : (2010) 2 SCC (L&S) 286 : 3 SCEC 713] it was laid down that in the absence of provision for revaluation it cannot be resorted to and the observations which were made in Centre for Public Interest Litigation v. High Court of Delhi [Centre for Public Interest Litigation v. High Court of Delhi, (2017) 11 SCC 456 : (2017) 11 SCC 464 : (2018) 1 SCC (L&S) 273 : (2018) 1 SCC (L&S) 280], the decision was rendered in 2016 after the examination had already been held, thus the provision for revaluation could not have been introduced after the examination had been held. In our opinion, for examination in question in the absence of provision for revaluation when the examination was held, it could not be resorted to."

9. In the instant case, it is an admitted fact that there is no provision in the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007, for revaluation of answer sheets and in absence of any such provisions under the rules, mandamus cannot be issued by this court to the respondents to revalue the answer sheet of the petitioner.

10. In the above circumstances, this court is of the view that the writ petition is devoid of merits and the same deserves only to be dismissed.

11. In the result, the writ petition is dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar (insp cell)

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Sub Assistant Registrar

kmk

To

1. The Secretary, Tamil Nadu Public Service Commission, V.O.C. Nagar, Park Town, Chennai 600003.

2.The Controller of Examinations, Tamil Nadu Public Service Commission, V.O.C. Nagar, Park Town, Chennai 600003.

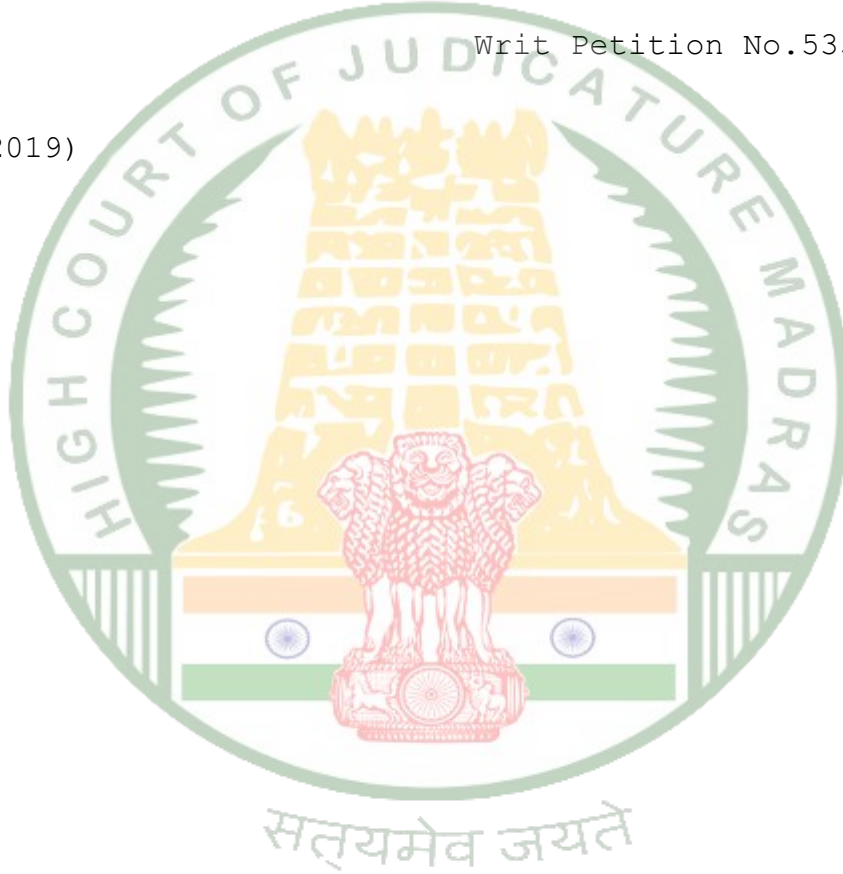
3.The Registrar General, High Court of Judicature at Madras, Chennai 600104.

4.The Secretary to Government, Law Department, Fort St. George, Chennai 600009.

+1cc to Mr.G.Surya Narayanan, Advocate, S.R.No. 18127

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VSN II (CO)
GN(26/04/2019)



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