

W.P. No. 14274 of 2019
and WMP.No.14358 of 2019

M. DHANDAPANI. J.,

Today, this Writ Petition is listed under the caption 'for being mentioned' at the instance of the learned counsel for the petitioners.

2. As prayed for, in the 3rd line of paragraph no.8 of my earlier order dated 08.11.2019 passed in W.P. No.14274 of 2019 and WMP.No.14358 of 2019 the word ***"C" series booklet*** shall be deleted and the same shall be replaced with the word ***"A" Series booklet***.

3. All other observations made in the said order shall remain intact.

सत्यमेव जयते

28.11.2019

ak

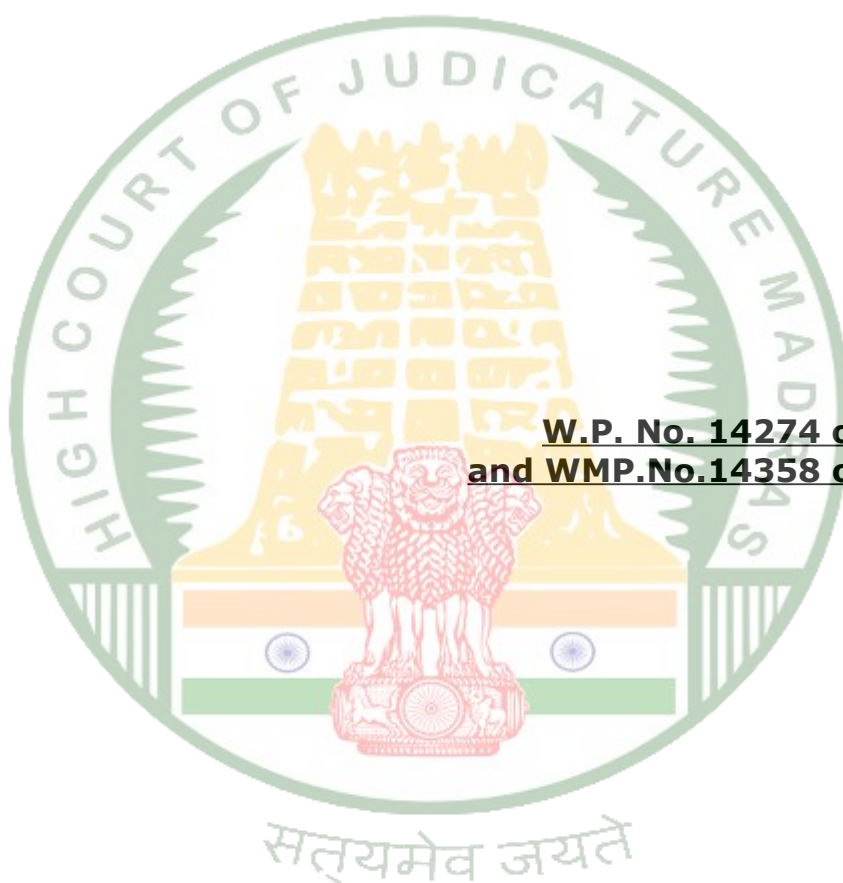
WEB COPY

Note:

Registry is directed to carry out necessary corrections and issue fresh order copy to the parties concerned by **today itself**.

W.P. No. 14274 of 2019

M. DHANDAPANI. J.,
ak



W.P. No. 14274 of 2019
and WMP.No.14358 of 2019

WEB COPY

28.11.2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.14274 of 2019 and
W.M.P.No.14358 of 2019

M.Madhan Kumar

..Petitioner

VS

The Chairman
Tamil Nadu Uniformed Services
Recruitment Board
Egmore, Chennai-8.

.. Respondent

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to revalue the question No.162 in "A" booklet and award 0.5 mark for the petitioner vide his Reg.No.0107055 and to consider the petitioner for appointment to the post of Sub-Inspector of Police (Finger Print) 2018 vide notification of respondent in Advertisement No.2/2018, dated 29.08.2018 within the time frame fixed by this

Court.

For Petitioner : Mr.A.Edwin Prabakar

For Respondent : Mrs.Narmada Sampath
Additional Advocate General
Assisted by Mr.V.Kadhirvelu

ORDER

Writ Petition is filed for issuance of Writ of Mandamus directing the respondent to revalue the question No.162 in "A" booklet and award 0.5 mark for the petitioner vide his Reg.No.0107055 and to consider the petitioner for appointment to the post of Sub-Inspector of Police (Finger Print) 2018 vide notification of respondent in Advertisement No.2/2018, dated 29.08.2018 within the time frame fixed by this Court.

2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Advocate General appearing for the respondent.

3. The case of the petitioner is that he is working as Grade – II Police Constable in Tamil Nadu Police Department. He belongs to MBC community. The respondent has invited application for around 202 vacancies for the post of Sub-Inspector of Police (Finger Print) for the year 2018 vide notification in Advertisement No.2/2018 dated 29.08.2018. Since the petitioner has qualified for the said post, he applied for the same under 20% quota (departmental candidate) vide Registration No.0107055. Thereafter, written examination was conducted on 22.12.2018. The petitioner attended the written examination and secured 57 marks. Subsequently, the petitioner was called for viva-voce and secured 5.30 marks and totally, the petitioner has secured 62.30 marks. Thereafter, the respondent published the cut off marks for examination and the cut off marks for the MBC category is 63.30. While being so, it appears that one Arunachalam had challenged the results for a particular question, which was wrong, before this Court in W.P.No.5542 of 2019. On the basis of the order passed in the above writ petition, the respondent has granted 0.5 marks to those candidates, who are all attended question No.117 in 'A' booklet. In view of the above, the petitioner is presently entitled to secure 62.80 marks. If the

mark is given in favour of the petitioner, he is eligible to be considered for the said post. The respondent has released the preliminary key answer in which, for question No.162 in Booklet 'A' series, they had mentioned the answer as option 'C' and the answer was changed in final key answer as option 'D'. If the petitioner is granted 0.50 marks for question No.162, he would be selected for the above post. Therefore, the petitioner has sent a representation to the respondent dated 02.05.2019 to consider his claim for half marks for the wrong question. Till date, his representation is not considered by the respondent. Aggrieved for not awarding the said mark in respect of question No.162, the present writ petition is filed by the petitioner.

4. Learned counsel appearing for the petitioner submitted that for question No.162 in 'A' series booklet in Tamil, it is stated as “
மூன்று இயக்க எண்களின் எண்ணிக்கை? பதில் A)729, B) 901, C) 899, D) 900” and the question in English is “The number of three digit number is_ Answers: A) 729, B) 901, C)899, D) 900”. They have wrongly translated in Tamil. However, all the four key answers are

correct. Whereas at the time of publishing preliminary answer sheet, answer for question No.162 is mentioned as option 'C' and the same was changed in final answer key as option 'D', which is incorrect. Accordingly, the petitioner is entitled to get grace mark of 0.50 marks. If grace mark is granted to the petitioner, he is entitled for selection. Therefore, he prays for allowing this writ petition.

5. Learned Additional Advocate General appearing for the respondent submitted that question and answer key given by the authority are correct. Initially, the key answer for question No.162 is given as 'C' and then, it was changed to 'D'. We have two folds of process for giving key answers. One is preliminary key answer and thereafter, the experts will be consulted after publishing of preliminary key answers. The petitioner has to make a representation regarding this issue. Admittedly, the petitioner has not made any objection within seven days from the date of publication of preliminary key answers. The said Arunachalam, who filed W.P.No.5542 of 2019, has also not filed representation. In support of her contention, she relied on the decision of the Hon'ble Apex Court reported in **(2018) 7 SCC 254 (Uttar Pradesh Public**

Service Commission, through its Chairman and another vs. Rahul Singh and another) and submitted that when there are conflicting views, the Court must bow down to the opinion of the experts. The relevant paragraph No.14 is extracted hereunder:

"14. In the present case, we find that all the three questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain textbooks. When there are conflicting views, then the Court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts."

6.The issue involved in the present case is whether question No.162 in 'A' series booklet in Tamil and its English translation are correct or not. This Court perused question No.162 and the question in English is "The number of three digit number is: Answers: A) 729, B) 901, C)899, D) 900". As per Tamil translation, the question is "மூன்று இயக்க எண்களின் எண்ணிக்கை? பதில் A)729, B) 901, C) 899, D)

900". According to the petitioner, question No.162 in Tamil translation is wrong. Because in முன்று இயக்க எண்களின் எண்ணிக்கை?, "இயக்க" means "movement or command". Whereas real translation is "இலக்க" means digit. Therefore, this Court is of the view that the translation given by the authority for question No.162 in Tamil is wrong. Further, in English, they have mentioned that 'three digit number', for which, whatever answers given by the candidates are correct. Initially, they have published preliminary key answer as option "C" and after getting opinion from the experts, they have declared the final answer as option "D". Whereas the petitioner has given the answer as option "A". This Court has also perused the decision of the Hon'ble Apex Court cited supra, wherein the Hon'ble Apex Court has held that when there are conflicting views, then the Court must bow down to the opinion of the experts. In the case on hand, there is no conflicting view, it is mere translation error i.e., wrongly translated in Tamil as "இயக்க" as against "இலக்க". However, in English, answers for three digit number mentioned in all the four key answers are correct. If any one answer is contradiction one, for not awarding mark in favor of the petitioner is bad in law.

7. Learned Additional Advocate General appearing for the respondent further submitted that the petitioner has not filed objection within seven days from the date of publication of preliminary key answer. A perusal of the records reveals that the preliminary key answer was released on 24.12.2018. Further, the petitioner is working as Grade-I Police Constable, he is an in-service candidate and he is entitled to participate in the departmental post for the next avenue of promotion. Denying the same, learned Additional Advocate General appearing for the respondent submitted that there are only fourteen vacancies. In view of the above, denying the post in favour of the petitioner is unreasonable. However, the learned Additional Advocate General appearing for the respondent submitted that a direction may be issued to the respondent to award mark to the candidates, who attended question No.162 in "A" series booklet.

8. In view of the above, this Court hereby directs the respondent to award mark to the petitioner as well as other candidates, who attended question No.162 in "C" series booklet

and redo the exercise as per the cut off marks in respect of BC, MBC and other categories. Accordingly, the writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.11.2019
2/2

Index : Yes/No
kj

NOTE: Issue order copy on 21.11.2019

To

The Chairman
Tamil Nadu Uniformed Services
Recruitment Board
Egmore, Chennai-8.

M.DHANDAPANI,J.

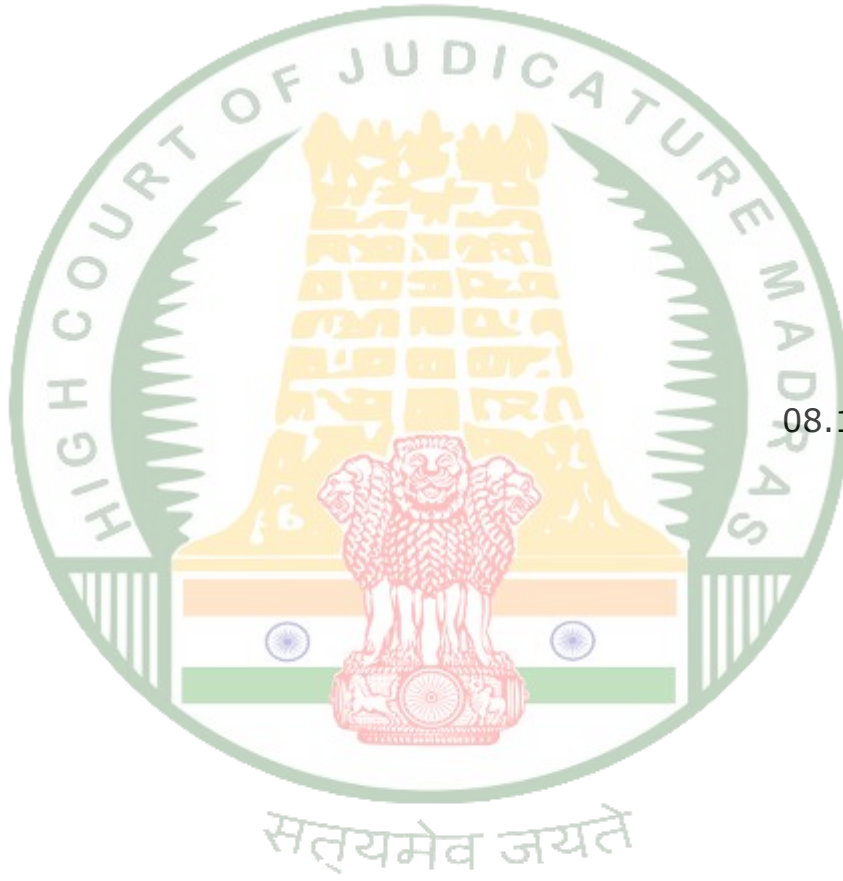
Kj

सत्यमेव जयते

WEB COPY

W.P. No. 14274 of 2019

W.P.No.14274 of 2019 and
W.M.P.No.14358 of 2019



08.11.2019
2/2

WEB COPY