



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.18398 & 18403 OF 2019

AND

W.M.P.NOS.17739 & 17741 OF 2019

Saravanan ..Petitioner in W.P.No.18398 of 2019

Moorthi ..Petitioner in W.P.No.18403 of 2019

Vs

The Member Secretary
Teacher Recruitment Board
College Road, Chennai - 600006

.. Respondents in both Writ Petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, to call for the records of the impugned order Rc.Nos. 11892 /PG/L2/2017 & 11891 /PG/L2/2017 dated 29.12.2017 passed by the respondent and quash the same and consequently direct the respondent to award one mark to the petitioner verify his certificates, further consider his candidature to the post of Post Graduate Assistant in the call for the respondent in the Direct Recruitment of Post Graduate Assistant 2015-2016 & 2016-2017.

For Petitioners : Mr.T.Ganesan
(in both Writ Petitions)

For Respondent : Mr.A.Rajaperumal
Special Government Pleader.

COMMON ORDER

Since the prayer in the above Writ Petitions are one and the same, they are clubbed together and a common order is passed.

2. The petitioners are having qualification of M.Phil and B.Ed in Chemistry. The respondent called for Direct Recruitment to the Post of Graduate Assistant for the years 2015-2016 & 2016-2017. The petitioners applied for the same and examination



was conducted on 02.07.2017. Their question booklet serials are D & A respectively. In that question paper, they found 4 questions to be wrong and tentative key for answers was published on 19.07.2017. One question was marked as '*' for which one mark was awarded. At the time of publishing the final key, the respondent marked '*' to the 3 questions and was awarded one mark to each of those questions. The question Nos.4 & 109 of the booklet serial respectively are also wrong. But those questions were not marked '*'.

3. As per the norms of the respondent, in claims relating to the dispute over the answer key, the proof should be in printed material. The petitioners received the printed question and answer from: Nuclear Chemistry-Through Problems (Second Edition), and immediately they have sent representations to the respondent on 23.08.2017, through registered post stating that question Nos.4 & 109 of the serials D & A respectively, were also wrong. They have also enclosed the text book reference, along with their representation.

4. As per the examination result, the petitioners have obtained 74 marks and the cut off fixed as 75 marks for candidates belonging to Backward Community. The petitioners belong to Backward Community category. If one mark is awarded to them, they will be eligible for the certificate verification. Even after their representation, they have not been awarded one mark and they have not been called for certificate verification. Aggrieved by the act of respondent, they have filed writ petitions before this Court praying to quash the provisional list of candidates calling for certificate verification. The writ petition was disposed of on 30.08.2017, with a direction that the respondent shall consider the representation submitted by the writ petitioners on 23.08.2017 within a period of eight weeks from the date of receipt of this order.

5. On 14.09.2017, the petitioners have sent representations to the respondent along with the order copy of this Court to consider their representations. But the respondent failed to consider the representations. Hence the petitioners have sent a contempt notice to the respondent. Thereafter, the respondent passed an order through their proceeding in Rc.Nos. 11891/PF/L2/2017 and 11892/PF/L2/2017 dated 29.12.2017 stating that the petitioners have not secured the eligible cut off mark and therefore, their representations were rejected. Hence the present writ petitions are filed.

6. The learned Additional Government Pleader would submit that the Respondent Board published the tentative answer key for all subjects on the Board's Website on 19.07.2017 and advised the candidates to submit the representations regarding



WEB COPY

objections, if any, with relevant proof, on or before 23.07.2017. The petitioners submitted their representations to the respondent and based on the representations, the respondent passed an order, dated 29.12.2017, stating that the petitioners have not secured eligible cut off marks and therefore, they were not considered for the selection. The learned counsel would also submit that the petitioners did not make any representation on or before 23.07.2017 as per the orders passed by the respondent and they made representations only on 23.08.2017.

7. The very same issue was already dealt with by the Hon'ble Supreme Court of India in the case of U.P.S.C., through its Chairman & Anr Vs Rahul Singh & Anr in Civil Appeals No. 5838 of 2018 and the relevant paragraphs are extracted here under:

11. In Ran Vijay Singh and Others Vs. State of Uttar Pradesh and Others, this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms;

" 30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

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;

30.2. If a statute, Rule of 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 of 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."



WEB COPY

whether they will get recruited or not; This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

12. 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.

8. In view of the above settled decision of law and it is brought to the notice of this Court, the selection is already over and at this point of time, the seniority position of selected candidates cannot be disturbed. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmm

To

The Member Secretary
Teacher Recruitment Board
College Road, Chennai - 600006.

+2cc to Mr.T.Ganesan, Advocate, S.R.No.80068 & 80070

+1cc to the Government Pleader, S.R.No.80741, 80746

W.P.Nos.18398 & 18403 of 2019

VGI (CO)
CS/20/01/2020