

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. Nos.30868 and 30869 of 2019

and

W.M.P. Nos.30959, 30960, 30965 and 30966 of 2019

R.Krishnamoorthi

.. Petitioner in W.P.No.30868 of 2019

R.Vasanthakumar

.. Petitioner in W.P.No.30869 of 2019

vs.

1.The Government of Tamilnadu,
Rep. by its Secretary,
Home Department,
Chennai.

2.The Member Secretary,
Tamil Nadu Uniformed Service,
Recruitment Board,
Chennai-8.

.. Respondents in both W.P's

Prayer in W.P.No.30868 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any order or direction in the nature of writ directing the respondents to award marks to the petitioners for the question numbers 35,39,50,51,52,53,63,65,67,71,74,78 & 79 examination conducted by the second respondent for the Grade II Police Constables Examination held on 25.08.2019.

Prayer in W.P.No.30869 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any order or direction in the nature of writ directing the respondents to award marks to the petitioners for the question numbers 20,29,39,50,51,52,61,63,65,67,71,74 & 77 examination conducted by the second respondent for the Grade II Police Constables Examination held on 25.08.2019.

For petitioners : Mr.S.Muthukrishnan
[in both W.P]

For Respondent 1 : Mr.R.S.Selvam
[in both W.P] Government Advocate

For Respondent 2 : Mrs.Narmadha Sampath
[in both W.P] Additional Advocate General
for Mr.V.Kadhirvelu

ORDER

According to the petitioners they applied for the post of Grade II Police Constable pursuant to the advertisement issued by the second respondent and he participated in the written examination. The question paper contains eighty questions awarding one mark each. The second respondent published final key answers on 26.08.2019 and on going through the same, the petitioners found that as many as thirteen marks were denied to them despite he gave correct answers. They belong to MBC community and cut off marks for the said category was fixed as forty eight marks and the petitioners have scored forty five marks. If the marks of thirteen questions which they have given right answers were added they would come within the zone of consideration and will become eligible for the said post. Aggrieved to non granting of marks, the petitioners have come forward with the present Writ petitions.

2. Learned counsel for the petitioners would submit that in fact there were twenty one wrong questions contained in the question paper. As per the final key answers published by the second respondent, out of which, the second respondent granted seven marks to all the candidates and for the remaining fourteen questions, he has not given any explanation. He would also submit that though the petitioners have rightly answered as many as thirteen questions and they are eligible for thirteen marks. However, the second respondent has not given the marks which prompted the petitioners to approach this Court. Hence they would seek indulgence of this Court.

3. Mrs.Narmatha Sampath, learned Additional Advocate General appearing for the second respondent would submit that the Tamil Nadu Uniformed Services recruitment board followed well defined procedure for processing representations over disputed questions / answers and an expert committee containing two trained graduate Assistant Teachers and one Post Graduate Assistant Teacher was formed for each subject and these experts examined the representations and only thereafter arrived at their findings. Based on the opinion of the experts, answers were modified for ten questions and final answer keys were hosted on the website on 26.09.2019.

4. As regards the claim of the petitioners is concerned she would submit that the petitioners have disputed as many as sixteen questions which was duly examined by the experts and modified seven questions. Accordingly, the petitioners were awarded seven marks and as far as thirteen questions referred by the petitioners were concerned she would submit that since the

petitioners have not given correct answers, no marks were rightly awarded to the petitioners. She would also submit that unless the candidate demonstrates that key answers are patently wrong on the face of it, the Courts cannot enter into 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. She also relied upon the decision of the Hon'ble Supreme Court in Civil Appeal No.5838 of 2018 (Arising out of SLP © No.12472 of 2018) etc. wherein she would draw the attention of this Court to paragraph 14 and 15 which are extracted as under:

"... 14. In the present case we find that all the 3 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 text books. 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.

15. In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct.

16. In view of the above discussion we allow the appeal filed by the U.P. Public Service Commission and set aside the judgment of the Allahabad High Court...."

5. Heard both sides and perused the entire materials available on record.

6. Having recorded all the submissions made by the learned Additional Advocate General, this Court absolutely does not find any merit in the Writ Petition to entertain the same. In fact, in consideration of the various representations regarding the disputes over questions / answers from various candidates, the second respondent has constituted the expert committee consisting two trained graduate / Assistant Teacher / Post Graduate Teacher who on going through the answers have given findings and based on the findings, key answers were published

and in fact out of sixteen questions disputed by the petitioners, based on the experts opinion, the petitioners were granted seven marks after tallying the answers given by the them with the key answers. As regards thirteen questions disputed by petitioners to which, according to them, they are entitled to thirteen marks. It has been categorically stated that the petitioners have not given right answers in respect of said questions and that no marks were given to them. As rightly submitted by the learned Additional Advocate General, this Court sent an expert in the field to examine and find out the answers given by the petitioners in respect of thirteen questions are correct while comparing with the key answers hosted by the second respondent. It is the matter of consideration by the experts and in this case, the second respondent has constituted the expert committee and based on its opinion only, the questions have been evaluated and found that the petitioners has not given correct answers and thereby no marks were awarded to him. I do not find any infirmity in this regard to interfere with the experts opinion. In fact, the key answers hosted by the second respondent based on the experts committee are applicable to all the candidates including the petitioners also. Therefore, in such a view of the matter there cannot be any discrepancy to evaluate question paper of the petitioners and denial of the marks of the petitioners and if the petitioners have given the right answer they would have certainly awarded with the marks.

7. For the aforesaid reasons, both the Writ Petitions fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary, Home Department, Chennai.
- 2.The Member Secretary,
Tamil Nadu Uniformed Service,
Recruitment Board, Chennai-8.

+2cc to Mr.S.Muthukrishnan, Advocate Sr.No.95625
+1 cc to The Government Pleader Sr.No. 95129

AKM/27.01.2020/4P-6C / W.P. Nos.30868 and 30869 of 2019
and W.M.P. Nos.30959, 30960, 30965 and 30966 of 2019