

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 32608 of 2019

and

WMP.No.32988 of 2019

1.K.Ambayiram

... petitioner

Versus

1.The Secretary to Government
Education Department,
Fort. St. George,
Chennai -9.

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

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondent to award marks in the Question Nos. 12,27,66,73,81,110,116,118,120 and 141 of Booklet of the Written Examination TRB -2019 in Tamil conducted on 29.09.2019 and to proceed with selection for the post of PG Assistant (Tamil) based on the revaluation with correct key answer and consequently direct the Respondents to award marks in the answer book of the petitioner (Roll No.19PG013805247) and to select the petitioner to the PG Assistant (Tamil) based on such revaluation, within a time frame to be fixed by Court.

For petitioner : Mr. D.Lalshmipathy

For Respondents : Ms.P.Raja, (for R1)
Government Advocate.

: Mr.C.Munusamy, (for R2)
Special Government Pleader.

ORDER

- 1.This Writ petition has been filed seeking a direction to the respondent to award marks in the Question Nos. 12,27,66,73,81,110,116,118,120 and 141 of Booklet of the Written Examination TRB -2019 in Tamil conducted on 29.09.2019 and to proceed with selection for the post of PG Assistant (Tamil) based on the revaluation with correct key answer and consequently direct the Respondents to award marks in the answer book of the petitioner (Roll No.19PG013805247) and to select the petitioner to the PG Assistant (Tamil) based on such revaluation, within a time frame to be fixed by Court.
- 2.The petitioner participated in the selection process conducted by the Teachers Recruitment Board for appointment to the post of P.G. Assistant in various subjects. The selection was conducted through on-line examination by objective type questions for 150 marks. The petitioner belongs to MBC category and also disability category and as per Notification, 34 posts were allotted to MBC and 4% posts were allotted to disability category. The Teachers Recruitment Board published the key answer on 03.10.2019. The petitioner has written the correct answer as per the standard books in the relevant subjects, however, he was not awarded any marks for such questions. The petitioner is entitled to marks for the said questions and if such marks are awarded to him, he will be eligible for being considered for appointment to the post of P.G. Assistant. The Teachers Recruitment Board has not selected the candidates for entire vacancies published by them and still there are some vacancies. Under such circumstances, the petitioner has come up with the Writ Petition for the relief stated above.

3.The learned Special Government Pleader appearing for the respondents/TRB would contend that the notification was issued on 12.06.2019, fixing the last date for submitting the applications on 15.07.2019, and written examination was conducted on 27.09.2019. The Teachers Recruitment Board published the tentative key answers on 03.10.2019 inter alia inviting objections on or before 07.10.2019. The Teachers Recruitment Board received 11,000 objections from the candidates. The Teachers Recruitment Board constituted an Expert Committee to consider the objections received from the various candidates. The Expert Committee scrutinized all the objections received on 21.10.2019 by following the procedure, without any discrimination. Some of the similarly placed persons have also given objections within the time stipulated by the Teachers Recruitment Board. The Special Government Pleader further contended that the key answer to the questions were prepared in

consultation with the experts in the subject. The objections received from the candidates will be examined and appropriate orders will be passed by the expert. While so, this Court need not to interfere with the claim of the petitioner for awarding additional marks purportedly on the basis that there is a mistake in the key answer given by the expert. In support of his contention, he relied on the following Judgments:-

"1. In Ram Vijay Singh and others Vs. State of Uttar Pradesh and others reported in (2018) 2 SCC 357;

2. In Kanpur University and others Vs. Samir Gupta and others reported in AIR 1983 SC 1230 : (1989) 2 SCALE 89 : (1983) 4 SCC 309 : (1984) 1 SCR 73;

3. In Uttar Pradesh Public Service Commission through its Chairman and another Vs. Rahul Singh and another reported in (2018) 7 SCC 254;

4. In A.Arthi Vs. The Tamil Nadu Public Service Commission in W.P.Nos.19276 and 19281 of 2018"

4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader and the learned Government Advocate appearing for the respondents.

5. From the materials on record and rival submissions of the parties, it is clear that there were disputes with the regard to correctness of the key answer given by the Teachers Recruitment Board. According to the petitioner, the key answer to the questions mentioned are wrong as per standard books published in the relevant subjects. The said contentions are disputed by the learned Special Government Pleader and the learned Government Advocate. It is no doubt true that for ascertaining the correctness or otherwise of the marks awarded to certain questions, the respondents, constituted an Expert committee. The expert committee has also received objections and also objections will be considered. While so, this Court, in exercise of the power conferred under Article 226 of The Constitution of India, cannot decide the disputed question of facts in the Writ proceedings, especially, the key answers were prepared by the expert in the relevant subjects. However, in order to render substantial justice, this Court is of the view that the petitioner must be given an opportunity to substantiate his case, so that, in the event of his succeeding in getting awarded additional marks, he will become eligible for appointment.

6. For the above reason, the Teachers Recruitment Board is directed to constitute an Expert Committee in the subjects, which are under challenge in the present Writ petition on or before 25.11.2019, consisting of the members, who are not in the

earlier committee. The petitioner is directed to submit his objections on or before 21.11.2019 along with materials, which he relied on in respect of his claim that the key answers not correct. On receiving such objections, the Expert Committee is directed to consider the objections and take a decision on or before 28.11.2019.

7.With the above directions, all the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Education Department,
Fort. St. George,
Chennai -9.

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

+1 cc to M/s.Lakshmipathy, Advocate Sr.No. 96762

AKM/22.11.19/4P- 4C /

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