

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. Nos.31296 of 2013 and 4542 of 2014
and

MP No.1 of 2013 and MP Nos.1 & 2 of 2014

K.P.Kavitha ... Petitioner in W.P. No.31296 of 2013
E.P. Yazhini ... Petitioner in W.P. No.4542 of 2013

-vs -

1. The Secretary to Government,
Education Department,
Fort St. George,
Chennai. ... 1st respondent in W.P.No.31296 of 2013

1. The Director of School Education,
DPI Compound,
College Road,
Chennai- 600 006. ... 1st respondent in W.P.No.4542 of 2014

2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maaligai,
DPI Compound,
College Road,
Chennai - 600 006. ... 2nd respondents in
both petitions

Prayer in W.P. No.31296 of 2013 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to award marks with references to Q.No.21, 54, 71, 73, 81, 88, 106 I booklet Physics 'A' and so that the petitioner is eligible to be considered for appointment to the post of Post Graduate Assistant in physics for the year 2012-2013.

Prayer in W.P. No.4542 of 2014 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to revalue the answer script of the petitioner with Hall Ticket No.13PG29040391 with regard to question Numbers 21, 54, 71, 73 and 88 and award marks to the petitioner for the said question Numbers and consequently declare the petitioner as pass in the Teachers Eligibility Test, 2013 and consequently direct the respondent to appoint the petitioner to the post of P.G. Assistant

(Physics).

For petitioner in W.P.No.31296 of 2013:Mr.Mukund R. Pandiyan

For petitioner in W.P. No.4542 of 2014 : Ms.Dakshayani Reddy

For R1 in both W.P.s : Mr.S.Suresh Kumar,
Government Advocate
For R2 in both W.P.s :Mr.C.Munusamy, Spl. GP

COMMON ORDER

Petitioners in both writ petitions seeking direction to the respondents to award appropriate marks to them for the wrong key answers published in Internet and to enable them to get appointment as Post Graduate Assistant.

2. As the issue involved in both these Writ Petitions is identical, they are disposed of by this common order.

3. Insofar as the petitioner in W.P. No.31296 of 2013 is concerned she completed Post Graduate in M.Sc (Physics) with B.Ed qualification and registered her name in the employment exchange. As per Notification dated 9.5.2013, she applied and appeared for written examination on 21.07.2013 and scored 100 marks out of 150 marks. It is her case that certain of the tentative key answers hosted in internet contains wrong answers for 7 questions. In spite of the wrong answers given in the key, the petitioner has not been provided with any marks, though she gave correct answers. Hence she has approached this Court for appropriate direction by filing the present writ petition.

4. Insofar as petitioner in W.P. No.4542 of 2014 is concerned, she completed Post Graduate in M.Sc (Physics) with B.Ed qualification and as per Notification, she applied and appeared for examination on 21.07.2013 and scored 103 marks initially and subsequently as per the directions of this Court, revised mark list has been published, wherein, her marks is shown as 98. However, the cut-off marks for her community (MBC) is 101 marks. It is her case that though she has given correct answers for five questions, however, marks have not been awarded by the respondents, thereby disentitling her case for consideration of her candidature. Hence she approached this Court for appropriate direction by filing the present writ petition.

5. Learned counsel appearing for the respective petitioners submitted that though the petitioners have given correct answers by shading the correct boxes, however, while valuing the answer sheets, the respondents have not awarded proper marks to the petitioners, which has disabled them in

their selection, though they are eligible for selection to the post of Post Graduate Assistant. Hence, they pray that these writ petitions be allowed by this Court and appropriate directions may be issued.

6. Mr.C.Munusamy, learned Special Government Pleader appearing for the 2nd respondent in both writ petitions vehemently opposed the contentions made by the learned counsel for the petitioners and submitted that the issue involved in these petitions is no longer res integra as the same has already been decided by this Court in W.P. No.32401 of 2013. Accordingly, the petitioners are not entitled for any relief and prays for dismissal of these writ petitions.

7. Heard the learned counsel on either side and perused the materials available on record.

8. The issue involved herein has been dealt with and negatived by this Court in W.P. No.32401 of 2013, dated 28.10.2020 and the operative portion of the said order is quoted hereunder for ready reference :-

"4. A perusal of the materials available on record reveal that the selection had taken place in the year 2013. However, no interim order has been granted by this Court reserving any post to be kept vacant. Though it is the submission of the petitioner that the answers given by him is right for which marks has not been awarded, it is to be pointed out that the issue is a technical issue, which has to be gone into by the concerned authorities at the relevant point of time. After a lapse of seven years, when all the posts have been filled up and no post is kept vacant and no interim order has been granted by this Court reserving any post to be kept vacant, at this distant point of time, after a lapse of seven years, it would not be justifiable for this Court to reopen the selection and render a verdict. The expert opinion as to the answers given in the key answer book cannot be substituted with a judicial opinion as it is within the realm of experts to decide on the answers. Trying to undo a particular selection at this distant point of time would not be in the interest of the persons, who had already been appointed and who have been functioning till date.

5. In such view of the matter, this Court is of the considered opinion that the points canvassed by the petitioner at this length of time cannot be gone into and, accordingly, the

writ petition fails and the same is dismissed.
No costs. Consequently, the connected
miscellaneous petitions are closed".

9.The issue being no longer res integra and stands squarely covered by the decision of this Court supra, these petitions are liable to be dismissed. Further, at this distant point of time, there being no interim order obtained by the petitioners at the initial stage, this Court is not inclined to pass any orders as prayed for. Therefore, the claim of the petitioners for appointment to the post of Post Graduate Assistants are rejected in the light of the observations made in W.P. No.32401 of 2013.

Accordingly, both the writ petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maaligai,
DPI Compound,
College Road,
Chennai - 600 006.

3. The Director of School Education,
DPI Compound,
College Road,
Chennai- 600 006.

+1cc to the Government Pleader SR.40422, 40423

W.P. Nos.31296 of 2013 and 4542 of 2014

KK(CO)
CB(10/02/2021)