

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2020

CORAM

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos.25518 to 25520 of 2017

1.L. Sanjeev	...Petitioner in WP.25518/2017
2.G. Vignesh	...Petitioner in WP.25519/2017
3.S. Manimaran	...Petitioner in WP.25520/2017

Vs

1.The Chairman,
Sub Committee,
Tamil Nadu Uniformed Services Recruitment Board
Pantheon Road,
Egmore, Chennai-600 008.

2.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board
Pantheon Road,
Egmore, Chennai-600 008.

... Respondents in all WPs

Prayer in W.P.No.25518 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue of directing the respondents to consider the candidature of the petitioner (Reg.No.0618255) for the post of Grade II Police Constable by awarding one mark to him for having attended the Question in Sl.No.23 in the Written Test which was framed with incorrect options, forthwith.

Prayer in W.P.No.25519 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue of directing the respondents to consider the candidature of the petitioner (Reg.No.0630445) for the post of Grade II Police Constable by awarding one mark to him for having attended the Question in Sl.No.8 in the Written Test which was framed with incorrect options, forthwith.

Prayer in W.P.No.25520 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue of directing the respondents to consider the candidature of the petitioner (Reg.No.0617939) for the post of Grade II Police Constable by awarding one mark to him for having attended the Question in Sl.No.23 in the Written Test which was framed with incorrect options, forthwith.

For Petitioners : Mr.S. Sathia Chandran
(in all WPs)

For RR 1&2 : Mr.V. Kadhirvelu
(in all WPs) Special Government Pleader

COMMON ORDER

These writ petitions have been filed by the petitioners seeking for a direction to the respondents to consider the candidature of the petitioners, i.e. whose Reg.No. is 0618255 (in W.P.25518 of 2017); i.e. whose Reg.No. is 0630445 (in W.P.No.25519 of 2017) and i.e. whose Reg.No. is 0617939 (in W.P.No.25520 of 2017) for the post of Grade II Police Constable by awarding one mark to them for having attended the Question in Sl.No.23 (in WP.No.25518 & 25520 of 2017) and the Question in Sl.No.8 (in WP.No.25519 of 2017) in the Written Test which was framed with incorrect options, forthwith.

2. According to the writ petitioners, on 21.01.2017, the first respondent issued an advertisement notifying for the posts of Grade II Police Constable (Men). Subsequently, the petitioners had applied for the aforesaid post and they have successfully completed the physical measurement and physical tests in Vellore District, which were conducted from 27.07.2017 to 09.08.2017 under the supervision of the respondents 1 and 2. Thereafter, at the end of the Physical Efficiency Test, about 3587 candidates, out of 6218 candidates, who had participated in Vellore Centre, were disqualified on various grounds. On 31.08.2017, when the final list of selected candidates was published, the petitioners were not selected. On verification of the selection list which contained all the 1309 selected candidates of Vellore District, the petitioners' Registration Numbers were not found in the list. Thereafter, on 08.9.2017, the individual marks of the candidates were published on the website of the first respondent, and it was declared that the petitioner in W.P.No.25520 of 2017 had secured totally 63 marks out of 71 marks, that the petitioner in W.P.No.25519 of 2017 had secured totally 67 marks out of 71 marks and that the petitioner in W.P.No.25518 of 2017 had secured totally 66.50 marks out of 71 marks and in the remarks column, it was shown that the petitioners' names were "not selected". The individual marks of the candidates and the cut off marks were also published. The details of the marks of the petitioners are as follows:

Enrolment Number	Name	Written Test Marks	PET Marks	Speci al Marks	Total Marks	Remark s
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0618255 in WP.25518/2017	Sanjeev L	54.00	12.00	0.50	66.50	Not Select ed
0630445 in WP.25519/2017	Vignesh G	55.00	12.00	0.00	67.00	Not Select ed
0617939 in WP.25520/2017	Manimaran S	54.00	9.00	0.00	63.00	Not Select ed

The cut-off marks for the BC category for the post of Armed Reserved Police (AR) is 71 and for the post of Tamil Nadu Special Police (TSP), the cut-off marks is 65, for Jail Warden (JW), it is 64 and for Firemen (F), it is 64. The petitioners were not selected due to a margin of one mark in the cut-off mark. It is submitted that in the written test, the option to the Question in Sl.No.23 in Part-A, General Knowledge, had been wrongly framed. The lightest chemical element is Hydrogen, which is denoted by the symbol "H". However, the option given did not contain the correct answer and the petitioners had marked it as Li-Lithium (Option-D). After the written test was over, they found out the mistake. As such, they were under the impression that one mark will be awarded as they had attended the said question. The petitioners in W.P.Nos.25518 and 25520 of 2017 secured only 54 in the written examination and the other petitioner in W.P.No.25519 of 2017 secured 55 marks in the written examination. Since one mark was not awarded for having attended the questions, the writ petitioners have come forward with the present writ petitions before this Court for the relief stated supra.

3. According to the writ petitioners, the petitioners in W.P.No.25518 of 2017 and W.P.No.25520 of 2017 had attended the Question in Sl.No.23 in the written test and the petitioner in W.P.No.25519 of 2017 had attended the Question in Sl.No.8 in the written test and they have correctly answered for the aforesaid question as "D". According to the writ petitioner in W.P.No.25519 of 2017, the options A, B, C, D and E in Question No.8 is not correct.

4. The learned counsel appearing for the respondents-Board submitted that the written examination was conducted by the respondents-Board on 21.05.2017 and the Board has also published the key answers in the website on 31.08.2017. Last date for the receipt of the representations from the candidate was on 08.06.2017. Further, on instructions, the learned counsel stated that the respondents-Board had received the representation from various candidates for the wrong answer

posted on the website. The writ petitioners have not submitted any such representation or objection to question of Sl.Nos.8 and 23 and the respondents-Board had published the final key answer on 05.07.2017. Even the final selection list was published provisionally on 31.08.2017. Thereafter, the writ petitions were filed by the writ petitioners before this Court. The learned counsel further submitted that the petitioners have no objection within the aforesaid period, and this Court, in the similar adjudication, by order dated 14.03.2016 in W.P.No.8531 of 2016, had considered and rejected the claim of the writ petitioner therein. Since the petitioners herein had no objection and as they had not made any representation for the aforesaid disputed question within the aforesaid period, they are not entitled to the relief sought for in the Writ Petitions. Therefore, as the petitioners herein had not approached within the period of seven days, on the ground of delay and laches, the present similar case is also liable to be rejected on the same ground by this Court.

5. Heard the submissions of the counsel for the parties concerned and carefully perused the materials available on record.

6. The first respondent/Tamil Nadu Uniformed Services Recruitment Board [TNUSRB] had invited applications from the candidates by common recruitment for the post of Gr.II Police Constables, Gr.II Jail Warders & Firemen - 2017 for 15664+47 (BL women ward for BCM) vacancies. The said advertisement was issued in Notification No.117 on 23.01.2017 and the last date for submission of application was 22.02.2017. The written examination was held on 21.05.2017. The candidates who were qualified in the written test will be allowed to participate in the Physical Measurement Test/Endurance/Physical Efficiency Test. The Physical efficiency Test was completed and the provisional selection list was published on 31.08.2017. According to the respondents, the petitioner in W.P.No.25519 of 2017 secured 55 marks in written test, 12 marks in physical efficiency test and no special marks were awarded and in total, he secured 67 marks.

7. The petitioner in W.P.No.25518 of 2017 secured 54 marks in written test, 12 marks in physical efficiency test and 0.50 special marks were awarded and in total, he secured 66.50 marks. The petitioner in W.P.No.25520 of 2017 secured 54 marks in written test, 9 marks in physical efficiency test and no special marks were awarded and in total, he secured 63 marks.

8. The date of birth of the petitioner in W.P.No.25518 of 2017 is 10.07.1992; the date of birth of the petitioner in W.P.No.25519 of 2017 is 04.05.1993 and the date of birth of the

petitioner in W.P.No.25520 of 2017 is 15.06.1995. The cut-off marks and cut-off date of birth for PSTM candidate under MBC General Category in WP.No.25518 of 2017 is as follows:-

Sl.No.	Post	Cut off Marks	Cut off DOB
1.	Armed Reserve	73	05.05.1998
2.	TSP	68	15.04.1994
3.	Jail Warder	67	01.07.1992
4.	Firemen	67	10.04.1993

The cut-off marks and cut-off date of birth for PSTM candidate (i) under SC General Category in W.P.No.25519 of 2017 is as follows:-

Sl.No.	Post	Cut off Marks	Cut off DOB
1.	Armed Reserve	72.5	05.05.1990
2.	TSP	68	25.04.1995
3.	Jail Warder	67	15.03.1993
4.	Firemen	67	16.06.1992

The cut-off marks and cut-off date of birth for PSTM candidate under BC General Category in WP.No.25520 of 2017 is as follows:-

Sl.No.	Post	Cut off Marks	Cut off DOB
1.	Armed Reserve	68	10.11.1991
2.	TSP	64.50	23.05.1993
3.	Jail Warder	64	06.05.1997
4.	Firemen	64	17.04.1999

9. It is evident from the above that the petitioner in W.P.No.25518 of 2017 secured 66.50 marks; the petitioner in W.P.No.25519 of 2017 secured 67 marks and the petitioner in W.P.No.25520 of 2017 secured 63 marks and all the petitioners have secured less mark than the required cut-off marks and hence, their names were not considered by the respondents-Board. Therefore, the respondents-Board had rejected the claim of the writ petitioners. Now the relief sought for in the present writ petitions relates only to disputed Question Nos.8 and 23, relating to the lightest element?

A) He B) Ar C) H2 D) Li

The details of answer are as follows:

USRB Key	Petitioners' claim as per Affidavit	Petitioners' answer as per OMR Sheet
C	D	D

10. It is submitted that the petitioners have not given any representation raising the dispute over the questions. The claim of the petitioner in W.P.No.25519 of 2017 to award mark for Question No.8 of Booklet "B" Series is not maintainable, as the answer given by the candidate is wrong and the final key published by the respondents-Board on 05.07.2017 is only

correct. The claim of the petitioners in W.P.Nos.25518 and 25520 of 2017 to award mark for Question No.23 of "A" Series is not maintainable, as the answer given by the candidates is wrong and the final key published by the respondents-Board on 07.07.2017. Thereafter, the writ petitioners have not made any petition or representation before the authority concerned within seven days from 01.06.2017 and the final key answer was published on 05.07.2017 after consulting with the experts. Therefore, the petitioners have not raised the aforesaid dispute before this Court within time and they had raised the disputes only in the month of September, 2017. Therefore, there is inordinate delay in approaching this Court. The counsel for the petitioners had not placed any relevant materials before this Court in respect of Question No.8. Insofar as the aforesaid Question Nos.8 and 23 are concerned, this Court cannot go into the correctness of the antecedents as decided by the High Court of Rajasthan at Jodhpur in the case of Rajveer Shekhawat and Ors Vs. State of Rajasthan and Ors, in S.B.Civil Writ Petition No.5685 of 2014, decided on September 11, 2014, wherein it has been held in Paragraph No.31 which reads thus.-

"31. Having considered the rival submissions and gone through the material on record, this Court is of the opinion that in no manner it can be inferred that the answers of the disputed questions suggested by the experts by way of revised Answer Key are palpably and demonstrably wrong so as to warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India."

11. Further, in the case of P.Diwakar Vs. Secretary to Government, Home (Police II) Department, Fort St. George, Chennai - 9 and Ors, a similar dispute was decided by this Court in W.P.No.8391 of 2016 (SLP.No.26978 of 2016) decided on March 7, 2016, wherein it has been held in Paragraph Nos.4, 5 and 6 are as follows.-

"4. We were faced with hundreds of cases during the selection process having dealt with each stage at the relevant time, so as to get the final stage and the result declaration. The candidates qualifying only at the particular stage would go to the next stage and that is the reason we monitored the process. The grievances/cause of action would arise at that stage in such examinations and we cannot expect the candidate to sleep over his/her rights and they must act promptly. In fact, we have rejected a large number of cases where petitioners had an afterthought based upon the subsequent stage

performance to question the previous stage only to

get in as a candidate qualified at the subsequent stage. Such a request cannot be permitted once the examination process is over, when the cause of action for the petitioner expired on one week expiring from 28.05.2015.

5. We had cautioned the learned counsel that now number of cases are coming up to somehow get into the list. This is a complete waste of judicial time and adventurism at best, especially when we have laid down principles which we examined in these matters. We thus, feel that the petitioner must be burdened with costs. However, taking into consideration the economic status of the petitioner, we impose only limited costs.

6. The writ petition is dismissed with costs of Rs.2,500/- (Rupees Two Thousand and Five Hundred Only) to be deposited with the Mediation and Conciliation Centre, High Court Campus, Madras, within a period of 15 days".

12. The aforesaid judgment of this Court was challenged before the Hon'ble Apex Court and the Supreme Court dismissed the appeals, with liberty to file their review application. Accordingly, the review applications have been filed in Rev.Appln.Nos.59 to 77, 96 & 97 of 2017 in Writ Petition No.8531 of 2016 (batch cases) pursuant to the order of the Hon'ble Apex Court, and the review applications were elaborately considered and the order under review before the Division Bench was confirmed by this Court in Rayappan Vs. The Secretary to Government, Home (Police-II) Department, Fort St. George, Chennai-9, in W.P.No.8531 of 2016 (batch cases) and all these review applications were dismissed on 12.09.2019.

13. Therefore, in the light of the aforesaid decision of this Court, there is no legal semblance to interfere with the final lists published by the respondents-Board and there is no merit in the claim of the writ petitioners to award the marks insofar as the Question No.8 is concerned. The petitioners are not entitled to the relief sought for in the Writ Petitions and the writ petitions are devoid of any merits and there is no error on the final lists published by the respondents-Board. Therefore, in view of the facts and circumstances of the case, the said writ petitions are liable to be rejected.

14. In view of the aforesaid observations, the writ

petitions are dismissed. No order as to costs in these writ petitions.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1.The Chairman,
Sub Committee,
Tamil Nadu Uniformed Services Recruitment Board
Pantheon Road, Egmore, Chennai-600 008.

2.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board
Pantheon Road, Egmore, Chennai-600 008.

+1cc to Mr.S.Sathiachandran, Advocate, Sr.No.10660

+1cc to Government Pleader, Sr.No.12423

W.P.Nos.25518 to 25520 of 2017

LN (CO)
GS (03/09/2020)

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