

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.4333 of 2019

The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Egmore,
Chennai - 600 008. Appellant/ Respondent

Vs.

P.Mohan Muthu Raman Respondent/ Petitioner

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 8.11.2019 made in W.P.No.28457 of 2019.

Prayer in W.P.No.28457 of 2019:

Writ of Mandamus directing the respondent to award 0.50 marks for the wrong question No. 120 in booklet C series to the petitioner (Reg.No. 0107199) and consequently select and appoint the petitioner in the post of Sub-Inspector of Police (Finger Print) 2018 vide notification of respondent in Advertisement No. 2/2018 dated 29.08.2018 within the time frame fixed by this Honble Court.

For Appellant

: Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.V.Kathirvelu
Special Government Pleader

For Respondent

: Mr.A.Edwin Prabakar

JUDGMENT

The Hon'ble Chief Justice

The present writ appeal arises out of the impugned judgment dated 8.11.2019, whereby the learned Single Judge has proceeded to allow the relief claimed by the respondent petitioner in respect of his selection as Sub Inspector of Police (Finger Print) practically on the same reasoning as rendered by him in almost an identical judgment of the same date in W.P.No.14274 of 2019 (M.Madhan Kumar v. The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Egmore, Chennai-600 008).

2. This matter could also have been disposed of along with W.A.No.670 of 2020 in the case of The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Egmore, Chennai - 600 008 v. M.Madhan Kumar and since the legal issue involved is almost the same, we adopt the reasonings given therein, but for a couple of different facts as involved in the present case.

3. In the present case, the respondent petitioner claimed that he had while attempting Question No.120 in "C" series booklet, opted for the answer "A" in respect of the said question, which question was identical to Question No.162 of "A" series as involved in the case of M.Madhan Kumar (supra). The factual difference, apart from the above, is that in the instant case the respondent petitioner P.Mohan Muthu Raman had moved his application/representation dated 27.12.2018, which was despatched by registered speed post on the same date. However, in this representation, the stand taken was differently worded as against the case of M.Madhan Kumar (supra). The representation filed by the respondent petitioner is extracted herein under:

"From
P.Mohan Muthuraman, Gr.I 29260
D-13, Police Quarters,
Tondiarpet,
Chennai.

To
President of Police Department/Member Secretary
Tamil Nadu Uniform Service Recruitment
Old Commissioner of Police building campus,
Pantheon Road, Egmore,
Chennai-8.

Respected Sir,

I am presently working as Grade One Inspector in Chennai Metropolitan CORECELL SECURITY BRANCH CID, I had attended the exam for Sub Inspect (Finger Print) in the year 2018 dated 22.12.2018 in Registration No.0107199 and attended "C" series question paper. Presently the first answer keys has been published in TNUSRB website, in the said answer keys for questions - [103, 119, 120, 121, 124, 125, 127 128] totally 8 answers are wrong. Their correct answers with proof of the same have been enclosed herewith. It is requested to correct my answers and allot marks for the same.

Place: Chennai
Date: 27-12-18

Yours faithfully,
Sd/- xxx
20/2/18

Enclosures:

- 1) Copy of Hall Ticket
- 2) Explanation for correct answers (Page 1 to 7)
- 3) Copy of the lessons from 7th Standard Samacheer Kalvi."

4. A perusal thereof would indicate that the respondent petitioner had nowhere complained about any wrong translation or incorrect depiction of the question as in the case of M.Madhan Kumar (supra). The respondent petitioner had only said that the key answer for eight questions were wrong and in particular he had mentioned Question No.120 of "C" series question paper which is identical to that of the question involved in M.Madhan Kumar (supra).

5. The respondent petitioner therefore had raised a plea that he had submitted the representation within time and his contention is that he had opted for the answer given at "A", whereas the preliminary key answer published was "C", which came to be finally converted to "D" after receiving the Expert's opinion. This aspect is similar to the case of M.Madhan Kumar (supra).

6. The respondent petitioner, however, did not complain of any misunderstanding of the question in his representation, but he also filed the writ petition in September, 2019 almost four months after the decision in the case of Arunachalam as discussed in the judgment delivered by us today in the case of M.Madhan Kumar (supra).

7. The respondent petitioner therefore in the present case even though had filed a representation which is alleged to be within time and had been received by the Tamil Nadu Unformed Services Recruitment Board on 31.12.2018, still the answer attempted by him as "A" was wrong and the option at "D" was correct.

8. Learned Additional Advocate General, who has also argued the case of M.Madhan Kumar (supra), has adopted the very same submissions in the present case except for the difference on facts as indicated above.

9. Having considered the submissions raised and having heard the learned Additional Advocate General, we find firstly that the argument of having misunderstood the question is not available here for the same reasons as given in the case of M.Madhan Kumar (supra), inasmuch as, the respondent petitioner had answered option "A", whereas the correct answer is option "D", for which we have given reasons as well in the case of M.Madhan Kumar (supra).

10. Secondly, even if the representation was received within time, it is obvious that the respondent petitioner gave a wrong option, which was not based on any misunderstanding of the question as per his own representation quoted herein above. It is correct that the preliminary key answer, after consultation with the Experts, was altered to "D", but that would not in any way come to the aid of the respondent petitioner.

11. Even though learned counsel for the respondent petitioner has adopted the same argument for treating the question to be wrong, the said argument is not applicable here, as this was not the grievance of the respondent petitioner before the Tamil Nadu Unformed Services Recruitment Board.

12. Thirdly, as already indicated by us in the judgment in the case of M.Madhan Kumar (supra), the learned Single Judge could not have proceeded to extend any such benefit contrary to the law laid down by the Apex Court in the case of Uttar Pradesh Public Service Commission, through its Chairman and another v. Rahul Singh and another, (2018) 7 SCC 254, which in turn relies on the judgment in the case of Ran Vijay Singh and others v. State of Uttar Pradesh and others, (2018) 2 SCC 357.

13. Fourthly, the suggestion made by learned Additional Advocate General for awarding a mark in respect of Question No.120 in "C" series booklet is also not justified for the reasons already given in the judgment in the case of M.Madhan Kumar (supra).

For the reasons aforesaid, this appeal deserves to be allowed. We, accordingly, set aside the impugned judgment dated 8.11.2019 and dismiss the writ petition. No costs. Consequently, C.M.P.No.27811 of 2019 is closed.

Sd/-
Assistant Registrar(cs III)

//True Copy//

Sub Assistant Registrar

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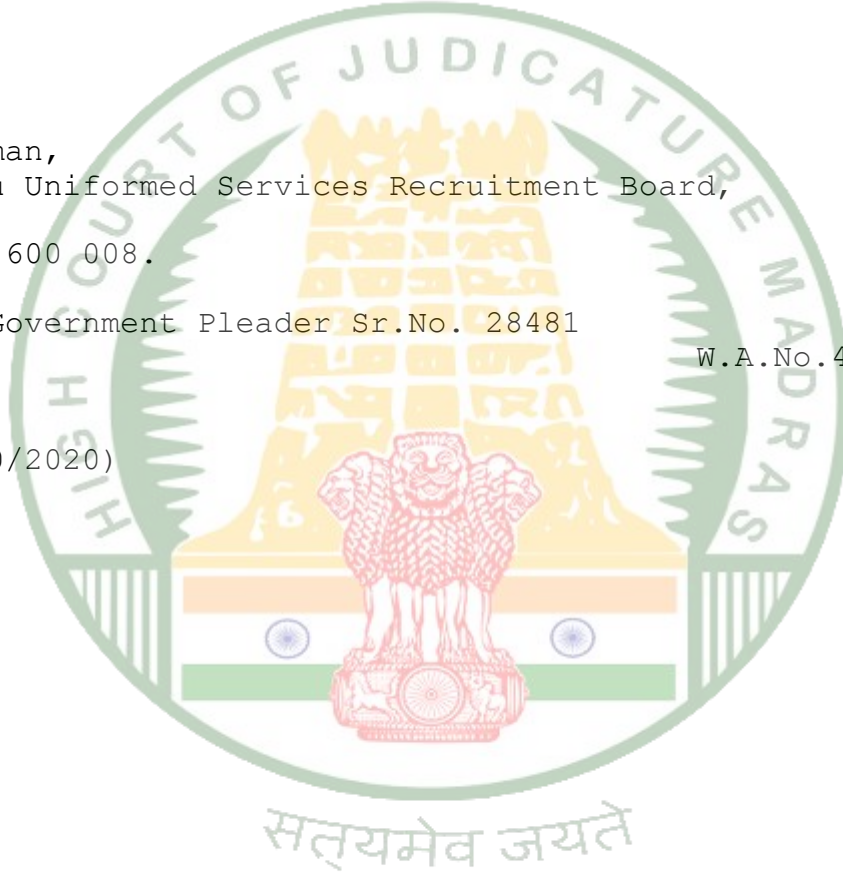
To

The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Egmore,
Chennai - 600 008.

+1 cc to Government Pleader Sr.No. 28481

W.A.No.4333 of 2019

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A.SK(07/10/2020)



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