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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-01-2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.35890 OF 2019

R.K.Sasidhar

...

Petitioner

-vs-

1.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai-600 003.

2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai-600 003.

3.The Director General of Police/Head of the Police Force,
Mylapore,
Chennai-600 004.

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Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records in connection with the proceedings of the first respondent in Memorandum No.3127/QD-A1/2008, dated 10.07.2019, and the subsequent show cause notice issued by the third respondent, dated 08.08.2019, Ref.No.C.No.196242/Con2 (1)/2019, and the subsequent Memorandum No.3127/QD-A1/2018, dated 11.12.2019, issued by the first respondent and quash the same.

For Petitioner : Mr.V.Prakash,
Senior Counsel,
for Mr.M.Kaviveerappan

For Respondents 1 & 2: Mr.M.Loganathan,
Standing Counsel.

For Respondent 3 : Mrs.K.Bhuvaneswari,
Addl.Govt.Pleader.



ORDER

This Writ Petition has been filed challenging the proceedings of the first respondent, dated 10.07.2019, debarring the petitioner from participating in any examination for three years, and the consequent Show Cause Notice issued by the third respondent, dated 08.08.2019, initiating departmental proceedings against the petitioner.

2. The case of the petitioner is that he participated in Group-I Examination conducted by Tamil Nadu Public Service Commission (TNPSC) against the vacancies for the period 2012-2014 and he was selected to the post of Deputy Superintendent of Police. He was appointed on 10.03.2017 and placed under probation for one year. After training, he was serving as Deputy Superintendent of Police at Thiruchuzhi, Virudhunagar District.

3. The petitioner had applied to write Half-Yearly Examination and Language Test in March, 2018. There were totally seven papers which the petitioner had to write and, out of the same, it was the Open Book Examination for four papers and the rest three papers were to be taken on a regular examination.

4. The petitioner was served with a Memo on 23.11.2018 to the effect that he had copied and written the examination in the subject of Tamil Nadu Police Standing Orders and he was called to submit his explanation therefor. He submitted his explanation. The explanation was not found to be satisfactory and, therefore, he was debarred from writing Half-Yearly Examination and Language Test for three years. Subsequently, the petitioner was also issued a Show Cause Notice, dated 08.08.2019, seeking to initiate departmental proceedings against the petitioner under Section 31 (1) (ii) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, in short, 'the Act', which has been made the subject matter of challenge in the present Writ Petition.

5. Mr.V.Prakash, learned Senior Counsel, appearing for the petitioner, submitted that the petitioner did not copy from any Text Books or Notes; he had written the examination for the entire three hours and he was not caught in the Examination Hall, copying. The learned Senior Counsel further submitted that no incriminating materials have been seized from the petitioner before or during or after the examination and the entire allegation made against the petitioner is baseless. He also submitted that a subsequent order has been passed by the Controller of Examinations, confirming the order, debarring the petitioner from taking examinations for three years. According to the learned Senior Counsel, the departmental proceedings are being conducted in a hasty manner and if at all any action is



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going to be taken against the petitioner and any major penalty is going to be imposed, the respondents will have to necessarily follow the procedure contemplated under Section 31 of the Act and only then the petitioner will be able to establish his defence.

6. Per contra, learned counsel appearing for the respondents submitted that the Controller of Examinations has noticed that the answers found in the Answer Sheet were exactly the same as they are found in the Text Book. The learned counsel further submitted that the structure and the content of the answers were also exactly tallying with those of the Text Book; in fact, the petitioner had written extra questions and it was clearly found that the petitioner had copied from the Text Book verbatim. According to the learned counsel, in the light of such findings given by an independent Officer, namely, the Controller of Examinations, no doubt can be entertained with regard to the allegations made against the petitioner that he copied during the Half-Yearly Examination, while taking the Tamil Nadu Police Standing Orders Paper. The learned counsel also submitted that there are absolutely no grounds to interfere with the Show Cause Notice issued to the petitioner and it is for the petitioner to submit his explanation to the said Show Cause Notice and that the procedure as per law will be followed before any action is taken against the petitioner. The learned counsel, accordingly, sought for dismissal of the Writ Petition.

7. This Court has carefully considered the submissions made on either side and also the material available on record.

8. This case portrays the sorry state-of-affairs that is prevailing, wherein, the so called educated person, who had cleared TNPSC Group-I Examination and is working as a Deputy Superintendent of Police, has resorted to copying to clear the examination. Desperation seems to have overwhelmed the petitioner, which resulted in him resorting to copying during the examination.

9. In this context, it is useful to extract the relevant findings of the Controller of Examinations in his proceedings, dated 11.12.2019, which were pursuant to the direction issued by this Court to consider the explanation submitted by the petitioner and pass appropriate orders. The said findings are as under :

'With reference to the orders of the Hon'ble High Court of Madras, the matter was reconsidered with connected records.

In view of the Documents available (viz.)

- (a) Answer Sheets written by Thiru. R.K.Sasidhar
- (b) Comments of the Examiner.
- (c) Tamil Nadu Police Standing Orders - Volume 1



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Published by Government of Tamilnadu 1999.

and further scrutiny, it is observed that :

(i) All the Answers written by the Candidate are same (not even similar) as given in the Tamilnadu Police Standing Orders Published by the Government of Tamilnadu.

(ii) The structure and content has been the same throughout all the answers.

(iii) The construction of composite sentences has remained the same in all possible situations.

(iv) The manners in which the subordinate points are arranged below the main points are the same and nowhere the order has changed.

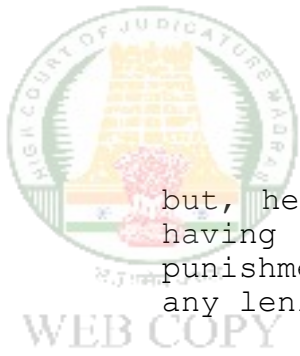
(v) Excess questions have been attended and these choices have been attempted in full.

While sentences are written based on one's understanding of the subject matter, there are hundreds of permutations and combinations available to present ideas. In this case, the sameness (not even similarity) is 100% that it is not possible to choose the same constructs and formats as given in the book but by copying the same from the source.

WHEREAS, the explanation given by Thiru R.K.Sasidhar talks about the checking undertaken by TNPSC before and during the conduct of the examination, it does not offer an explanation for the astounding sameness of all the answers as indicated by the examiner.

Therefore, the Original order debarring Thiru R.K.Sasidhar is hereby reiterated i.e. to debar the candidature of Thiru. R.K.Sasidhar, D.S.P., (Reg.No.62) for appearing for the examination for a period of 3 years w.e.f. 2.11.2018 for having 'Resorting to malpractices in Examination Hall'.

10. It is clear from the above order that the petitioner has copied word by word from the Text Book and, in fact, the structure, the content and the construction of sentences in the Answer Sheet tallied exactly with those of the Text Book. The Controller of Examinations, has, indeed, commented that in the present case, the sameness (not even similarity) is 100%. In the light of the said specific finding, there is no doubt in the mind of this Court that the petitioner has resorted to copying. Therefore, there is every justification for debarring the petitioner from appearing in the examination for a period of three years.



11. The petitioner is not an immature school student, but, he is working as a Deputy Superintendent of Police , after having cleared TNPSC Group-I Examination. Therefore, the punishment must be more stringent and there is no question of any leniency, which can be shown in favour of the petitioner.

12. The petitioner has been issued with a Show Cause Notice, dated 08.08.2019, by the third respondent. This Court does not find any ground to interfere with the said Show Cause Notice. It is for the petitioner to submit his explanation and the respondents are expected to follow the relevant provisions of the Act and the Rules and give an opportunity to the petitioner before passing any final orders. This Court cannot also pass any orders merely based on the apprehension raised by the petitioner to the effect that he will be terminated from service.

13. Accordingly, this Court does not see any reason to interfere with the proceedings initiated against the petitioner and there are absolutely no merits in this Writ Petition, which is dismissed. No costs. Consequently, the connected W.M.P.Nos.36801, 36803 and 36805 of 2019 are also dismissed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai-600 003.

2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
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3.The Director General of Police/Head of the Police Force,
Mylapore,
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+1 cc to Mr.M.Kaviveerappan Advocate sr2509
+1 cc to the Government Pleader sr3517

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