



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :14.12.2020

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD) Nos.3336, 3341, 3598, 3627, 3628, 6663, 6997 and 7980 of 2020
and

W.M.P. (MD) Nos.2795, 2796, 2800, 2801, 3044, 3045, 3063, 3064, 3065, 3066, 6013, 6014, 6420, 6422, 7422 and 7423 of 2020

Muthaiya	...Petitioner in WP(MD).No.3336/2020
Raja	...Petitioner in WP(MD).No.3341/2020
R.Kannadasan	...Petitioner in WP(MD).No.3598/2020
A.Akilanda Easwaran	...Petitioner in WP(MD).No.3627/2020
Malaiyasamy	...Petitioner in WP(MD).No.3628/2020
Saravanakumar	...Petitioner in WP(MD).No.6663/2020
J.Karthik	...Petitioner in WP(MD).No.6997/2020
K.Vasanthakumar	...Petitioner in WP(MD).No.7980/2020

Vs

1.The Chairman,
Tamilnadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai 600 008.

2.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai 600 008.

...Respondents WP.Nos.3336, 3341, 6663 & 6997/2020

1.The Secretary to the Government of Tamilnadu, Home (Police)
Department, Fort St.George, Chennai

2. The Chairman Tamilnadu Uniformed Services, Recruitment Board,
Old Commissioner of Police Office Campus, Pantheon Road, Egmore,
Chennai-8

3. The Member Secretary, Tamilnadu Uniformed Services Recruitment
Board, Old Commissioner of Police Office Campus, Pantheon Road,
Egmore, Chennai-8

... Respondents in WP(MD).3598, 3627, 3628 and 7980/2020



Prayer in WP(MD).No.3336/2020:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant one mark to the petitioner (Enrolment No.2504694) for the question No.76, made in D-Series Written Test Question Paper to the common recruitment for posts of Grade II police Constable Grade II Jail Warder and Fireman, 2019 and consequently to direct the respondents to add that one mark into the petitioner's mark already obtained and further to permit the petitioner to participate in the next level selection process so as to enable him to get selection in the above respondents recruitment 2019.

Prayer in WP(MD). 3341/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to direct the respondent to grant One Mark to the petitioner (Enrolment no.2507833) for the question no.52 made in C Series Written Test Question paper to the common recruitment for posts of Grade II Police constable, Grade II Jail Warder and Firemen 2019 and consequently to direct the respondents to add that one mark into the petitioner marks already obtained and further to permit the petitioner to participate in the next level selection process so as to enable him to get selection in the above respondents recruitment 2019

Prayer in WP(MD). 3598/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Call for the records relating to the impugned Final Answer Key as against question No.58 in respect of B Type question pertaining to the written Examination held on 25.8.2019 of the Recruitment of the Grade II Police Constable (Men and Women) 2019 vide Advertisement No.1/2019 on the file of the 2nd respondent to quash the same and consequently to direct the 2nd respondent to add that one mark into the petitioner marks already obtained and subject the petitioner for Medical Examination and proceed further in accordance with law.

Prayer in WP(MD). 3627/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records relating to the impugned final answer key as against question no.76 in respect of D type Question pertaining to the Written Examination held on 25.8.2019 of the Recruitment of the Grade II Police Constable Gr II Jail Warders and Fireman 2019 vide Advertisement no.1/2019 on the file of the 2nd respondent to quash the same and consequently to direct the 2nd respondent to add that one mark into



the petitioners marks already obtained and subject the petitioner for Medical Examination and proceed further in accordance

Prayer in WP(MD). 3628/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court call for the records relating to the impugned Final Answer Key as against question No.76, in respect of D Type Question pertaining to the Written Examination held on 25.8.2019 of the recruitment of the Grade II Police Constable (Men and Women) 2019 vide Advertisement No.1/2019 on the file of the 2nd respondent to add that one mark into the petitioner marks already obtained and subject the petitioner for medical Examination and proceed further in accordance with law.

Prayer in WP(MD). 6663/ 2020 :

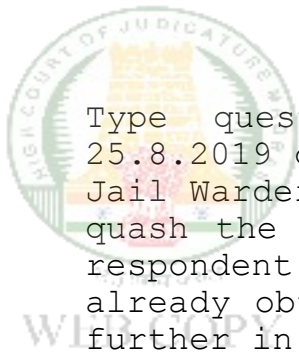
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ or order or any other direction or writ in the nature of Writ of Mandamus, to direct the respondents to grant One mark to the petitioner (Enrolment No.2408229) for the question no.64, Made in A-Series Written Test Question paper of the common recruitment for the posts of Grade II Police Constable, Grade II Jail Warder and Fireman, 2019 and consequently to direct te respondents to add that one mark into the petitioners marks already obtained and further to permit the petitioner to participate in the next level selection process so as to enable him to get selection in the above respondents recruitment, 2019.

Prayer in WP(MD). 6997/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ or order or any other direction or writ in the nature of Writ of Mandamus, to direct the respondents to grant One Mark to the petitioner(Enrolment No.2507279) for the question no.52, made in C-Series Written Test QuestionPaper of the common recruitment for the posts of Grade II Police Constable, Grade II Jail Warder and Fireman, 2019 and consequently to direct the respondents to add that one mark into the petitioners marks already obtained and further to permit the petitioner to participate in the next level selection process so as to enable him to get selection in the above respondents recruitment, 2019.

Prayer in WP(MD). 7980/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Final Answer Key as against Question no.76 in respect of D



Type question pertaining to the written examination held on 25.8.2019 of the Recruitment of the Grade-II Police Constable (GR.II Jail Warders and Firemen-2019) on the file of the 2nd respondent and quash the same as illegal and consequently direction directing the respondent no.2 to add that one mark into the petitioners marks already obtained and subject me for Medical Examination and proceed further in accordance with law

For Petitioner : Mr.M.S.Jeyakarthik
(In WP(MD)Nos.3336, 3341, 6663 and 6997/2020)

Mr.D.Selvanayagam for
M/s.R.Banuprasath
(In WP(MD)Nos.3598, 3627, 3628, and 7980/2020)

For Respondents: Mr.K.Chellapandian
Additional Advocate General assisted by
Mr.M.Jeyakumar
Additional Government Pleader
(In WP(MD).Nos.3336, 3341, 3598, and 3628/2020)

Mr.K.Chellapandian
Additional Advocate General assisted by
Mr.B.Bhagavathy
Government Advocate
(In WP(MD)Nos.3627, 6663, 6997 and 7980/2020)

COMMON ORDER

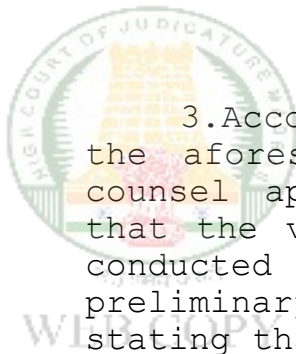
These writ petitions have been filed to direct the respondents to grant one mark to the petitioners for the question Nos.64, 58, 52 and 76 made in the series A, B, C and D respectively in the written test question paper to the common recruitment for the posts of Police Constable Grade-II, Jail Warder Grade-II and Fireman, 2019 and to direct the respondents to add that one mark into the petitioners and further to permit the petitioners to participate in the next level selection process for the aforesaid posts.

2.It is the grievance of the petitioners that the following question has been asked commonly in the written examination, which was conducted for recruitment to the aforesaid posts for the year 2019-2020 in all the four series.

“ தனித்து நிற்கும் எழுத்து எது என்பதை குறிக்கவும்
S B M E

(A) M
(C) S

(B) B
(D) E”



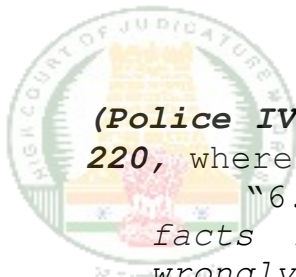
3. According to the petitioner, all the options / answers for the aforesaid question is correct. In this regard, the learned counsel appearing for the petitioners, unanimously, would submit that the very same question was asked in the previous recruitment conducted for the year 2017-2018 and in the aforesaid recruitment, preliminary answer key was issued by the respondent Department stating that 'E' is the correct answer. Thereafter, the final answer key was issued, after the receipt of the objections from the candidates to the preliminary key answer and after considering all the objections raised by the candidates, final answer key was published by the Expert Committee, stating that all the options are correct for the aforesaid question.

4. The learned counsel would further submit that in the case on hand, in pursuant to the notification in advertisement No.1/2019, dated 06.03.2019, the petitioners have applied for the posts of Police Constable Grade-II, Jail Warder Grade-II and Fireman, 2019 and participated in the written examination. The aforesaid question was asked in the written examination. After completing the examination process, a preliminary answer key was issued by the respondent department, wherein, it had been stated that option (D) ie., 'E' is the correct answer for the aforesaid question.

5. The learned counsel would further submit that in a similar way, as that of the previous year, the respondents called for objections from the candidates and all the objections received by the respondents were considered by the Expert Committee. However, the Expert Committee issued the final answer key stating that option (D) ie., 'E' is the correct answer for the aforesaid question, which, according to the petitioners, is totally wrong and arbitrary.

6. The learned counsels would further submit that in the recruitment for the year 2017-2018, the same question has been asked and the Expert Committee has issued the final answer key stating that all the options are correct for the aforesaid question, thereby, the candidates, who have participated in the written examination for the recruitment process for the year 2017-2018 for the aforesaid posts, were provided one additional mark, but, in the present case, the Expert Committee has issued the final answer key stating that option (D) ie., 'E' alone is the correct answer for the aforesaid question, which is contrary to the earlier decision made by the Expert Committee.

7. They would further submit that for the 2017-2018 recruitment process, the examination results were published in the web-site immediately, after the conclusion of the written examination, whereas, in the case on hand, the examination results were published, when the respondents have released the selection list of candidates, which is in violation of the order passed by this Court



(Police IV) Department, Chennai and others reported in **2010 (1) CWC 220**, wherein, it has been held as follows:-

"6. In the present case on hand, there is no dispute on facts inasmuch as question no.11, 38 and 44 have been wrongly evaluated. A reading of the reply given by the second respondent subsequently to one of the petitioners under the Right to Information Act would show that the right answer for question no.11 is option (D), for question no.38, all the answers and question no.44 is option (A). It is also admitted by the respondents that question no.11, a wrong answer has been given in the key answer by indicating that option (B) as the correct answer and for question no.38, the wrong answer of (C) has been given and for question no.44, wrong answer of (B) has been given. Even in the counter affidavit, the said fact that wrong answers have been given for question nos.11, 38 and 44 has not been denied and it is further not denied that the correct answer to question no.11 is (D), 38 all answers and 44 (A) respectively. Therefore, this Court finds that there is no dispute on fact. Hence, this Court will have to proceed that wrong key answers have been given as indicated above and the correct answers are subsequently given by the second respondent.

7. Mr.C.Selvaraj, learned senior counsel submitted that even the answers given by the second respondent subsequently for question no.11 is not correct, since for question no.11, answer (D) cannot be the correct answer as per the text book of the 10th Standard. This Court finds that the subsequent evaluation has been done by the second respondent on consulting the experts and therefore, the contention of the learned senior counsel for the petitioners cannot be accepted by this Court. However inasmuch as the key answer given for question no.11 is also wrong and the correct answer being option no.(D), the same will have to be taken as the correct answer. This Court while exercising the power under Article 226 of the Constitution of India cannot act as a supervising body or an expert in evaluating the key answers given by the respondents which was given subsequently based upon consultation of the experts. Therefore, this Court is of the opinion that the said decision of the second respondent cannot be reviewed by this Hon'ble Court. The Hon'ble Apex Court in the judgment reported in (2005) 13 SCC 749 [GURU NANAK DEV UNIVERSITY v. SAUMIL GARG AND OTHERS] has held that until and unless it is demonstratively erroneous and clear, the Court should not substitute its own opinion on the decision made by an authority who is competent to say so. The Hon'ble Apex Court was pleased to observe that when there is a benefit of doubt, the same will have to go in favour of examining the body. Therefore, on a consideration of the above said legal



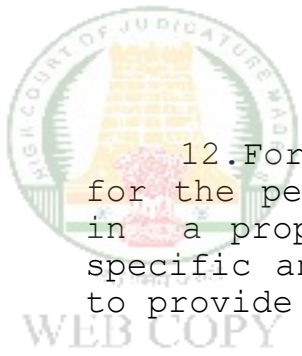
position, this Court is of the opinion that question no.11 will have to be evaluated by awarding the correct key answer as option No. (D)."

8.The learned counsel appearing for the petitioners admitted the fact that based on the marks obtained by the candidates, the selection list was published. In addition to the aforesaid statement, Mr.M.S.Jeyakarthick, learned counsel would submit that the Expert Committee constituted for the year 2017-2018 provided one view and the Expert Committee constituted for the present year provided a different view. Since two different views are provided for the very same question, in order to ascertain the correct answer, a fresh Expert Committee is required to be constituted. Therefore, the learned counsel would jointly submit that appropriate directions may be issued to the respondents either to provide one mark to all the candidates for the aforesaid question or to constitute a fresh Expert Committee, so as to decide the exact right answer.

9.*Per contra*, Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.M.Jeyakumar, learned Additional Government Pleader appearing in all the writ petitions on behalf of the respondents would submit that in the case on hand, the written examination to the common recruitment for the posts of Police Constable Grade-II, Jail Warder Grade-II and Firemen, 2019 was conducted on 25.08.2019 and a preliminary answer key was published on 27.08.2019 and thereafter, the candidates were instructed to send their objections, if any, within a period of 7 days ie., on or before 03.09.2019, along with the material proof, which was also stipulated in instruction No.15 of the hall ticket issued to the candidates for the written examination.

10.He would further submit that in the case on hand, the petitioners have not given any objection to the respondents within the stipulated time. However, after receiving the objections raised by the other candidates, an Expert Committee was constituted, who examined the objections of the other candidates and based on the expert committee opinions, final answer key was published on 26.09.2019 in the web-site. After perusing the disputed question, answer and the objections raised by the candidates, the 3 member Expert Committee came to the conclusion on psychology basis that the answer for the disputed question is option (D) ie., 'E', which is a vowel. He would therefore submit that the petitioners cannot be awarded marks for the disputed question, based on the experts' opinion.

11.The learned Additional Advocate General would further submit that due to the failure on the part of the petitioners, they have filed the present writ petitions and therefore, he would submit that



12. For the aforesaid submission, the learned counsels appearing for the petitioners would submit that the disputed question is not in a proper format. If the same deals with vowels, it should be specific and therefore, for this reason alone, the respondents have to provide one mark to the disputed question for all the candidates.

13. Heard the learned counsel appearing for the petitioners as well as the learned Additional Advocate General appearing for the respondents and perused the materials available on record.

14. In pursuant to the notification, dated 06.03.2019, the petitioners herein have applied for the posts of Police Constable Grade-II, Jail Warder Grade-II and Fireman, 2019 and participated in the written examination. For the purpose of writing the written examination, hall tickets were issued to the petitioners herein along with necessary instructions. Thereafter, the written examination was conducted and the preliminary answer key was published in the web-site on 27.08.2019.

15. In Serial No.15 of the hall ticket, though the candidates were instructed to send their objections within a period of 7 days from the date of publishing the preliminary answer key, ie., on or before, 03.09.2019, if any disputes were found in the questions as well as the answers along with the material proof, the petitioners herein have failed to send their objections in writing with regard to the disputed question.

16. In such circumstances, this Court is of an opinion that if the petitioners herein had given their objections with regard to the disputed question before the respondents, they might have got what they needed, by placing the disputed question before the Expert Committee. However, without making any objection before the respondents, the petitioners have approached this Court for granting one mark to the disputed question.

17. On a perusal of the papers, this Court is also of the opinion that in the recruitment process conducted for the aforesaid posts for the year 2017-2018, the Expert Committee has wrongly decided that all the answers are correct for the very same disputed question, when a preliminary answer key was issued stating that option (D) ie., 'E' is the right answer, based on the application of mind provided by the persons or Board, who set the question paper.

18. The disputed question is under the category of 'reasoning', which requires the candidates to apply their mind and to attend the question. This category is specifically meant for assessing the psychological thinking capacity of the candidates. But, in the case on hand, the petitioners herein have failed to consider all those aspects.



19.Further, the mistake committed by the Expert Committee, which was formed for recruitment to the aforesaid posts for the year 2017-2018, was corrected by the Expert Committee formed for the calendar year 2019-2020. The disputed question, which is under the category of reasoning, asked only with the aim to assess the psychological thinking capacity of the candidates and it is for the candidates to apply their mind and answer the question. But, on a perusal of the materials available on record, it appears that no one has applied their mind, while answering the aforesaid disputed question.

20.As stated above, the disputed question asked in the examination is to test the physiological thinking capacity of the candidates under the reasoning category. The question was that 'which is the odd letter'. Under the said question, there are four answers i.e., (a) M, (b) B, (c) S and (d) E. Odd letter in the sense, a question asked which is the odd number, it should have come in the mind of the candidate in connection with reference to the vowels, which means which are vowels. With that idea only, the question was asked. Who ever know the vowels would have answered definitely the answer is 'E'.

21.In the present case, no one has applied their mind with reference to the vowels and arguments also not mined in this aspect and all the petitioners, on the other hand, though they have made opposition, agreed the odd word letter is 'E', which is vowel and other letters are not vowels. Further, the petitioners have not made any objections within the period of 7 days, as per the instructions.

22.In view of the foregoing discussions, this Court is of the view that the respondents as well as the Expert Committee have rightly applied their mind and evaluated the answer sheets and not provided the mark to the petitioners herein.

23.Thus, the answer key provided by the Expert Committee is correct, which does not warrant any interference of this Court and I find nothing wrong in the answer key provided by the Expert Committee as stated by the learned counsels appearing for the petitioners.

24.For the purpose of constituting a new Expert Committee, this Court is not inclined to pass any orders, since the 3 member Expert Committee have applied their mind in a right way, by rectifying the earlier mistake committed by the Expert Committee, which was formed for recruitment to the aforesaid posts for the year 2017-2018.



25. In the light of the above, I propose to dismiss all the writ petitions and accordingly, the same is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to the Government of Tamilnadu,
Home (Police) Department, Fort St. George, Cehnnai
2. The Chairman,
Tamilnadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
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3. The Member Secretary,
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Old Commissioner of Police Office Campus,
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Chennai 600 008.

+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.Nos. 25697 to 25703

**W.P. (MD) Nos.3336, 3341, 3598, 3627, 3628,
6663, 6997 and 7980 of 2020**

14.12.2020

SV(CO)

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<https://hcservices.ecourts.gov.in/hcservices/>