

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.06.2022
DELIVERED ON: 28.06.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.8191 OF 2020
AND
WMP.NOS.9763 TO 9765 OF 2020

P.Narmadha

...Petitioner

Vs

1.The Chairman,
TNUSRB,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-08.

2.The Member Secretary,
TNUSRB,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to award marks for 3 questions, which were printed wrongly in question and answer in question paper "B" series for the post of Sub-Inspector of Police, 2019 conducted by the Tamil Nadu Uniformed Services Recruitment Board and consequently to include the petitioner's name in the MBC Category list of passed out candidates of written exams and thereby to include the petitioner in the list of candidates to be called for to next stage i.e., PMT-ET-PET for recruitment of Sub-Inspector of Police (Taluk, AR & TSP).

For Petitioner : Mr.M.Rajendiran

For Respondents : Mr.P.Kumaresan,
Additional Advocate General

O R D E R

The prayer in the Writ Petition is for a Mandamus directing the respondents to award marks for 3 questions, which were

printed wrongly in question and answer in "B" series question paper for the post of Sub-Inspector of Police, 2019 conducted by the Tamil Nadu Uniformed Services Recruitment Board and consequently to include the petitioner's name in the MBC Category list of passed out candidates in the written examination and thereby to include the petitioner in the list of candidates to be called for next stage i.e., PMT-ET-PET for recruitment of Sub-Inspector of Police (Taluk, AR & TSP).

2. Facts briefly narrated are as follows:

2.1. The respondent Board- Tamil Nadu Uniformed Services Recruitment Board has published a Notification No.2/2019 dated 08.03.2019, inviting applications for direct recruitment to the post of Sub-Inspector of Police [Taluk, Armed Reserve (Men & Women /Transgender)] & Tamil Nadu Special Police (Men)-2019. As per the notification, 969 vacancies were notified for the post of Sub-Inspector of Police, in which 20% allotted for department quota and 10% for sports quota.

2.2. The recruitment process consists of Written Examination, Physical Measurement Test (PMT), Endurance Test (ET), Physical Efficiency Test (PET), Viva Voce for recruitment of Sub-Inspector of Police (Taluk, AR & TSP). The first stage is written examination with objective type paper of 70 marks. There are five types of question paper series viz., "A", "B", "C", "D" & "E".

2.3. The petitioner applied for the said post as per the notification and she was issued with Hall Ticket to appear for the written examination on 12.01.2020. The petitioner was issued with "B" series question paper in the written examination and she found that more than 7 questions were printed wrong, either error in spelling or wrong answer out of 140 questions. Each question contains 0.5 mark. After the written examination, the respondent had published the key answers in the website. Further the respondent has also published a notice in the website stating that whoever disputing the key answer, they can make a representation to describe the question Nos. in order to obtain grace marks for the wrong questions.

2.4. The petitioner made a representation on 24.01.2020 in person narrating the wrong key answer for few questions. According to the petitioner, Question Nos.28, 30, 33, 75, 77, 93, 137 were given wrong answer/option/question, for which she has submitted a representation dated 24.01.2020. After receipt of the representation, the respondent had published second key answer (Final Answer Key) in the website. The respondent has published the result on 16.03.2020 in the website and on verification, the petitioner was awarded 42 marks. The

petitioner comes under MBC category, for which the cut off mark fixed was 42.5.

2.5. According to the petitioner, the respondent has awarded marks for 4 questions viz., Question Nos.30, 33, 93 & 137 only, whereas marks was not awarded for 3 questions viz., Question Nos.28, 75 and 77. The petitioner verified with the books, website and University guides, which shows that the answers for disputed 3 questions are not clear in the final key answer and if the marks are awarded to the particular 3 questions, her total marks would be 43.5, i.e., she will reach the zone of consideration under MBC category. There is a disparity between the first key answers and the final key answers and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3. Mr.M.Rajendiran, learned counsel for the petitioner has made the following submissions:

(i) The respondent had chosen "Wheat" as the right answer for Question No.75 [Which of the following is a Long Day Plant?] and the petitioner was not awarded any mark for Question No.75. Wheat is not an answer for the long day plant, but the same is defined under the short long day plant.

(ii) There is a mistake in the question in Tamil Version as regards Question No.77 [An Example for Synthetic Auxin is]. Usual procedure followed by recruitment agencies is that the answer and question is same as in English and Tamil version, but in Question No.77, there is no match between English and Tamil Version.

(iii) As regards Question No.28 [Chennai is also called as], the answer is South Asia or India, which is given in the books as well as website and other magazines, but the answer given in the final key answer is "Detroit of Asia".

In the light of the above said discrepancies between the questions and the final answer keys, the petitioner prays for awarding of grace marks for the aforesaid 3 disputed questions.

4. Mr.P.Kumaresan, learned Additional Advocate General for the respondents has drawn the attention of this Court to the counter affidavit of the second respondent, wherein it has been stated as under:

(i) The Expert Committee, after analysing the disputes, concluded the answer as option "B" - Detroit of Asia for Question No.28. Since the petitioner had chosen option "C" - Detroit of South India, the petitioner's request for marks cannot be conceded.

(ii) The respondent has chosen option "D"-Wheat as the right answer and the Board had received representations disputing the answer to Question No.75. The Expert Committee, after analysing the disputes, concluded the answer as option "D" and since the petitioner had chosen option "A"-Tobacco for the said question, the petitioner's request for giving marks cannot be conceded.

(iii) As regards the mismatch between English and Tamil Version for Question No.77, the Expert Committee, after analysing the disputes and translation for the above question and answer, concluded the answer as "D-NAA", but the petitioner had chosen option "A" as the answer. Further the Expert Committee had opined that the options for the given question in both Tamil and English matches.

(iv) Moreover in Point No.9 of the instructions to the candidates given in OMR answer sheet, it is explicitly stated that "in case of doubt in questions, English version is the final" and therefore, the petitioner's request for appropriate marks for the above stated questions cannot be conceded.

(v) The petitioner had relied on other books, magazines and websites which are not authentic.

On the aforesaid contentions, the learned Additional Advocate General prays for dismissal of the writ petition. The learned Additional Advocate General, in support of his submissions, had placed reliance upon the following decisions:

- (i) Basavaiah (Dr.) v. Dr.H.L.Ramesh and Others [(2010) 8 SCC 372]
- (ii) UPPSC, through its Chairman & Anr. v. Rahul Singh & Anr. [Civil Appeal No.5838 of 2018 dated 14.06.2018] ;
- (iii) W.P.Nos.30868 of 2019 dated 14.11.2019 [R.Krishnamoorthi and another v. The Government of Tamil Nadu]
- (iv) Indresh Kumar Mishra and Others v. State of Jharkhand and Others [2022 SCC Online 449].

5. This Court has anxiously considered the submissions made and also perused the entire materials available on record.

6. The undisputed fact remains that the petitioner, who belongs to MBC category, had participated in the selection process for appointment to the post of Sub-Inspector of Police, in pursuant to Notification No.2/2019 dated 08.03.2019 issued by the respondent and she attended the written examination on 12.01.2020 and secured 42 marks. The respondent had fixed the cut off mark for MBC category as 42.5. The grievance of the petitioner is that she was not awarded marks for 3 questions namely, Question Nos.28, 75 and 77 on account of wrong key answers and mismatch in translation.

7. It is well settled that onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. The Hon'ble Supreme Court in Civil Appeal No.5838 of 2018 [Arising out of SLP (C) No.12472 of 2018 etc.,] has observed that "Unless the candidate demonstrates that the key answers are patently wrong on the face of it, if the Courts cannot enter into academic field, weigh the pros and cons of the arguments by both sides and then come to the conclusion as to which of the answer is better or more correct".

8. It is also well settled that in academic matters, the Courts have a very limited role particularly when no malafides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the Courts to leave the decisions to the academicians and experts. As a matter of principle, the Courts should never make an endeavour to sit in appeal over the decision of the experts. The Courts must realise and appreciate its constraints and limitations in academic matters.

9. This Court has gone through the disputed questions and the key answers projected by both sides. As regards Question No.28, "Detroit of Asia" is the correct key answer as concluded by the Expert Committee. However, the petitioner has chosen option C - "Detroit of South India" and therefore, the petitioner is not entitled for mark for the said question. As regards Question No.75, the correct key answer as concluded by the Expert Committee is option D-"Wheat" and whereas the petitioner has answered as option A-"Tobacco" and therefore, the petitioner is not entitled to get mark for the said question. As regards Question No.77, on a bare reading of the question, this Court is able to notice that there is a clear mismatch between the English version and Tamil translated version and therefore, for the said question, the petitioner is entitled to get grace mark.

10. In the light of above discussions and well settled legal position, the petitioner is entitled to be awarded grace marks for Question No.77. Therefore, this Court directs the respondents to award marks to the petitioner for Question No.77 in question paper "B" series for the post of Sub-Inspector of Police, 2019 conducted by the Tamil Nadu Uniformed Services Recruitment Board and publish the results of the petitioner. If the petitioner reaches the zone of consideration under MBC

category, the petitioner's name shall be included in the provisional selection list of passed out candidates in the written exams, if she is otherwise eligible. The aforesaid exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

11. The Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

Jvm

To

- 1.The Chairman,
TNUSRB, Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai-08.
- 2.The Member Secretary,
TNUSRB, Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.

+1cc to Mr.T.Saravanan, Advocate Sr.No.40037

W.P.No.8191 of 2020

GJ(CO)
RVM(19/07/2022)