



Writ Petition Nos.21598 and 21881 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

Coram

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

Writ Petition Nos.21598 & 21881 of 2022

and

W.M.P.Nos.20623, 20902, 20904 & 20906 of 2022

W.P.No.21598 of 2022

M.Ganesh Murugan
S/o.Muthu Krishnan

.. Petitioner

Vs.

Tamil Nadu Uniformed Services Recruitment
Board,
represented by its Member Secretary,
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai - 600 008.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondent to consider and dispose of the petitioner's representation dated 28.07.2022 within a time frame to be fixed by this Court by awarding one mark to the petitioner in the written examination for Sub-Inspectors of Police (Taluk & AR), 2022 and permit the petitioner's name to be included in the list of selected candidates in



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the open Quota for the post of Sub-Inspector of Police (Taluk & AR) 2022 recruitment.

For Petitioner : Mr.V.M.Venkatramana

For Respondent : Mr.P.Kumaresan,
Additional Advocate General - VII
assisted by Mrs.Sowmi Dutton,
Standing Counsel

W.P.No.21881 of 2022

M.Saravanan
S/o.E.Mohan

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home Department, Fort St.George,
Chennai - 600 009.

2.The Director General of Police/Chairperson,
Tamil Nadu Uniform Services Recruitment Board,
Anna Salai, Chennai - 600 002.

3.Member Secretary,
Tamil Nadu Uniformed Services Recruitment
Board,
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai - 600 008.

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the Final Key dated 27.07.2022 released by the third respondent for the Written Exam conducted on 25.06.2022 and to quash the same and grant marks for the petitioner for the Question Nos.48, 91 and 130 of the Main Written Exam and consequently, direct the third respondent to allow the petitioner to participate in the Physical Test and Certificate Verification scheduled to be held on 23.08.2022.

For Petitioner : Mr.D.Ganesh Raj

For Respondents : Mr.P.Kumaresan,
Additional Advocate General - VII
assisted by Mrs.Sowmi Dutton,
Standing Counsel [R3]
Ms.M.Jayanthi,
Additional Government Pleader [R1&R2]

COMMON ORDER

The issue involved in these writ petitions is under what circumstances while exercising powers under Article 226 of the Constitution of India this Court can interfere with the selection result for the public posts.

2. The petitioners had applied for the post of Sub-Inspector of Police pursuant to the recruitment notification issued by the respondent Board. They



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were not selected as per the selection list. The petitioners contend that if the correct answers of the petitioners to Question Nos.73 and 110 and Question Nos.48, 91 and 130 respectively, were taken into consideration by the respondent Board, they would have been awarded additional marks and in that case, they would have been in the zone of consideration for selection to the subject post.

3. According to the petitioners, in the preliminary key published by the respondent Board to Question Nos.73 and 110 and Question Nos.48, 91 and 130 respectively, the correct answers were given. However, in the final key, the answers given were different to the aforementioned questions. In such circumstances, the petitioner in W.P.No.21598 of 2022 has filed this writ petition for a mandamus seeking for a direction to award 0.5 marks to the petitioner to enable him to come under the zone of consideration for selection to the post of Sub-Inspector of Police and the petitioner in W.P.No.21881 of 2022 has filed this writ petition seeking to quash the Final Key dated 27.07.2022 released by the third respondent Board for the Written Exam conducted on 25.06.2022 and grant marks for the petitioner for the Question



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Nos.48, 91 and 130 and consequently, direct the third respondent to allow the petitioner to participate in the Physical Test and Certificate Verification.

4. The petitioners have filed documents along with these writ petitions to substantiate their claim that the correct answer is the one given by the petitioners for Question Nos.73 and 110 and Question Nos.48, 91 and 130 respectively.

5. A counter affidavit has been filed by the respondents denying the contentions of the petitioners. According to them, only based on an expert committee report, they had finalised the key answers and as per the final key, the selected candidates were shortlisted. According to them, the petitioners have submitted wrong answers to Question Nos.73 and 110 and Question Nos.48, 91 and 130 respectively and therefore, they cannot seek for a direction from this Court for adding marks to enable them to come under the zone of consideration.

6. Heard Mr.V.M.Venkatramana and Mr.D.Ganesh Raj, learned



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counsel appearing for the petitioners and Mr.P.Kumaresan, learned Additional Advocate General - VII assisted by Mrs.Sowmi Dutten, learned Standing Counsel appearing for the third respondent and Ms.M.Jayanthi, learned Additional Government Pleader, appearing for respondents 1 and 2.

7. Learned counsel appearing for the petitioners drew the attention of this Court to the answers for the subject questions, which have been disputed by the petitioners. Learned counsel also drew the attention of this Court to an extract from the book "A Modern Approach to Verbal & Non-Verbal Reasoning", which has been filed as a document along with these writ petitions to substantiate the petitioners' case that the answers given by the petitioners to the subject questions are the correct answers. Learned counsel would also submit that since the answers given to the subject questions in the preliminary key were correct, there was no necessity for the petitioners to raise any objection to the same. However, according to the petitioners, in the final key published by the respondent Board, the answers given to the subject questions are different and therefore, necessarily, appropriate marks will have to be added to the petitioners marks, which will enable the petitioners to



come under the zone of consideration.

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8. Learned counsel appearing for the petitioners further submitted that in the final key, for certain questions, two answers are given and if the answers to the questions, which are disputed in these writ petitions, are also given two correct answers, the petitioners would have secured appropriate marks, which would have enabled them to come under the zone of consideration.

9. Learned counsel appearing for the petitioners further submitted that an expert report issued by the Department of Psychology is submitted by the respondents pursuant to the directions of this Court. It is the grievance of the petitioners that the Department of Psychology is not an expert in the field involving the questions, which have been disputed in these writ petitions. Therefore, according to them, the said expert report cannot be accepted by this Court.

10. *Per contra*, learned Additional Advocate General-VII appearing for



the respondent Board would submit that only based on the expert report and based on the marks secured by the aspirants, the selection was finalised. He further submitted that the present writ petitions are not maintainable in view of the fact that when an expert has rendered an opinion regarding the answers for the said questions, this Court while exercising powers under Article 226 of the Constitution of India cannot entertain these writ petitions.

11. In support of his submissions, learned Additional Advocate General-VII also drew the attention of this Court to the following authorities:

- (i) Civil Appeal No.5838 of 2018 dated 14.06.2018 in the case of ***U.P.P.S.C., through its Chairman and another v. Rahul Singh & another*** ;
- (ii) SLP No.1951 of 2022 dated 28.02.2022 in the case of ***Mahesh Kumar v. Staff Selection Commission & another.***

12. Learned counsel for the petitioners have not disputed the fact that the answers given in the key answers to the subject questions, namely, Question Nos.73 and 110 and Question Nos.48, 91 and 130 respectively, are correct, though, learned counsel would contend that the answers given by the petitioners are also correct.



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13. The issue raised by the petitioners in these writ petitions has been answered by the Hon'ble Supreme Court in the case of **U.P.P.S.C.** [supra] relied upon by the learned Additional Advocate General in clear terms. The Honourable Supreme Court, after giving due consideration to its earlier decisions in the cases of *Kanpur University through Vice-Chancellor and others [(1983) 4 SCC 309]* and *Ran Vijay Singh and others v. State of Uttar Pradesh and others [2018 (2) SCC 357]*, has observed as follows:

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse - exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an uneviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put it in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great



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efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination - whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

14. Apart from the aforesaid observations made by the Honourable Supreme Court, it has been made clear in paragraph No.12 of the very same judgment that the law is well-settled that the 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.

15. In the case on hand also, the petitioners have challenged the final



key answers on the ground that the preliminary key answers, according to them, were correct answers, which have been changed in the final key answers. As seen from the aforesaid decision of the Honourable Supreme Court, it has been made clear that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. The Honourable Supreme Court has made it clear that if an error is committed by the examining authority, the complete body of the candidates suffers. The Honourable Supreme Court has also further observed that the entire examination process does not deserve to be derailed because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer.

16. The enormity of the task of conducting a large scale examination might reveal certain lapses, which cannot on the face of it be termed as a deliberate one. In the expert opinion submitted by the respondents pursuant to directions given by this Court, it has been categorically held that the answers given in the key answers to the subject questions are correct, though the petitioners may contend that the expert report has been submitted by the Department of Psychology of a College, whereas the subject answers, which



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are in dispute to the subject questions are not psychology related questions.

The examination was conducted to selected candidates for the post of Sub-Inspector of Police and when the questions involved are rudimentary in nature, the contention of the petitioners that an expert well-known about the subject questions can give the correct answers cannot be accepted by this Court. If the Constitutional Courts start entertaining such kind of issues like those involved in these writ petitions, where the petitioners do not contend that the answers given by the respondent Board in the final key is wrong, the flood gates will be opened and there will be no finality to the selection process.

17. It is also submitted by the learned Additional Advocate General appearing for the respondents that the selection has already been finalised to the subject post. Even though, no appointment orders have been issued by the respondents till date, this Court is of the considered view that in view of the aforesaid reasons, at this stage, that too, when the petitioners have not been able to establish that answers given to the subject questions in the final key are wrong, this Court cannot entertain these writ petitions. Further, the



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persons, who have been selected as per the final selection list of the respondent Board, are not parties in these writ petition.

18. Though the petitioners have approached this Court immediately after the petitioners were not selected, it cannot be a reason for entertaining these writ petitions as the Honourable Supreme Court in the case of **U.P.P.S.C.** [supra], in unequivocal terms, has observed that even if the petitioners cancellation may be partially correct, the entire examination process does not deserve to be derailed only because some candidates are disappointed, dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer.

19. For the foregoing reasons, this Court does not find any merit in these writ petitions. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.



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Note : Issue order copy by 06.12.2022

Index: Yes/No
gm/vsi2

To

- 1.The Principal Secretary to Government,
Home Department, Fort St.George,
Chennai - 600 009.
- 2.The Director General of Police/Chairperson,

14/16



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Tamil Nadu Uniform Services Recruitment Board,
Anna Salai, Chennai - 600 002.

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3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai - 600 008.

ABDUL QUDDHOSE, J.

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