



WP(MD)Nos.16071/2022, etc. batch

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.08.2022

DELIVERED ON : 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)Nos.16071/2022, 1597/2020, 2914/2021, 1595/2020, 868/2021, 1601/2020, 1899/2020, 722/2020, 1589/2020, 1592/2020, 1600/2020, 775/2020, 1593/2020, 1594/2020, 1596/2020, 1598/2020, 1599/2020, 1363/2020, 1368/2020, 1371/2020, 14139/2020, 15116/2020, 15135/2020, 16791/2020, 17360/2020, 17476/2020, 2482/2021 and 1761/2021 and connected W.M.Ps. and Cont.P.(MD)Nos.1494 to 1496 and 1488 of 2021

In W.P.(MD)No.16071 of 2022

T.Meenakshisundari

... Petitioner

Vs.

1.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai – 6.

2.The Secretary to Government,
Government of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai.

3.The Director of School Education,
College Road, Nungampakkam,
Chennai – 600 008.

... Respondents



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from proceeding with certificate verification and other selection process to the post of PG Assistant (Economics) pursuant to the Notification in Advertisement No. 1/2021, dated 09.09.2021 by the 1st respondent without considering the petitioner's candidature for appointment to the post of PG Assistant (Economics) in the selection process in pursuant to the notification No. 10/19, dated 12.06.2019 by the 1st respondent.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.V.R.Shanmuganathan
Standing Counsel

COMMON ORDER

All the petitioners herein are aspirants for appointments to the post of Post Graduate Assistants / Physical Education Directors Grade – I in the School Education Departments and other Departments. In response to a Notification issued by the Teacher Recruitment Board (TRB), calling for



WP(MD)Nos.16071/2022, etc. batch

applications for the posts of Post Graduate Assistants in Tamil, History and Economics as well as for Physical Education Grade – I, all these petitioners had submitted their applications through on-line mode and were permitted to participate in the computer based examinations. None of the candidatures of these petitioners were included in the provisional selection list.

2. The grievances of all these petitioners are that some of the final Key Answers published by the TRB in the subjects of Tamil, History and Economics were incorrect. When some of these aggrieved candidates had approached this Court with such grievances and had placed reliance on certain subject materials for establishing that some of the final Key Answers were incorrect, this Court had directed the TRB to constitute an Expert Committee for considering the representations / objections received from the candidates for re-evaluating some of the questions.

3. In accordance with the recommendations of this Court, the TRB had also constituted an Expert Committee for the aforesaid three subjects and based on their recommendations, the following final Key Answers were revised:



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

Subjects	Question Nos.	Final Key published by TRB on 21.10.2019	Revised Key
Tamil	66	B	*
History	33	D	C
	55	D	*
	97	D	B/D
Economics	8	B	C
	22	A	*
	29	A	D

4. In accordance with the aforesaid revision, based on the recommendation of the Expert Committee, the revised marks of the candidates were also published. In spite of such revision by the Expert Committee, none of these petitioners herein had qualified themselves for further selection process. In this background, they now seek for re-evaluation of the tentative Key Answers pertaining to the questions in serial Nos.2, 3, 7, 8, 12, 20, 23, 29, 36, 37, 41, 42, 43, 51, 58, 61, 74, 76, 77, 79, 86, 92, 95, 96, 98, 99, 102, 103, 107, 130 and 144 for which purpose, they rely on various subject materials.



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

5. Since the grievances of all these petitioners arise from the common Notification issued by the TRB dated 12.06.2019 / 09.09.2021 and the relief they seek for is also one and the same, all these writ petitions are disposed through this common order.

6. Before venturing further into the cases, it would be pertinent to mention that pursuant to the revised mark list published on 06.01.2021, TRB had conducted Certificate Verification for the candidates on 20.01.2021, who were not earlier called for the two verifications conducted. On 27.01.2021, the revised selection list was also published based on the certificate verification conducted earlier and accordingly, the selected candidates were all appointed and are now working in various Departments.

7. The grounds raised by all these petitioners are predominantly to the effect that some of the Key Answers published by the TRB are demonstrably wrong and that the choice of answers in the English version and the Tamil version, are diametrically opposite. The further grounds tends to suggest that the Key Answers are apparently incorrect, when compared to the academic materials touching upon the relevant subjects and hence, they



WP(MD)Nos.16071/2022, etc. batch

WEB COPY seek for re-evaluation.

8. The learned Standing Counsel for TRB, on the other hand, would submit that in view of the various representations and objections received by the unsuccessful candidates, they had constituted an Expert Committee to re-evaluate all the questions relating to the Key Answers, which was pointed out by these candidates, out of which some of the Key Answers were revised and the marks were also allotted to the candidates. Hence, he would submit that, another exercise of re-evaluation is not required. It is not in dispute that pursuant to the publication of the final Key Answers, an Expert Committee was constituted to re-evaluate the answers, which were pointed out by some of the unsuccessful candidates and the revised marks were also allotted to the candidates.

9. The core issue involved in the present writ petition is as to whether this Court, exercising its power under Article 226 of the Constitution of India, would be justified in analyzing the academic materials placed before this Court for the purpose of re-evaluating the final Key Answers?



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

10. Such an exercise by this Court is neither feasible nor permissible, in view of the various decisions rendered by the Hon'ble Supreme Court, as well as the High Courts. In the case of ***Uttar Pradesh Public Service Commission Vs. Rahul Singh and another*** reported in **2018 (7) SCC 254**, this issue was predominantly dealt with in the following manner:

"9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

10. In Kanpur University, through Vice Chancellor and Others vs. Samir Gupta and Others [(1983) 4 SCC 309], this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong. Following observations of the Court are pertinent:-

"16.....We agree that the key answer



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct....."

The Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In *Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others [(2018) 2 SCC 357]*, this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms:-

"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit



WEB COPY



WP(MD)Nos.16071/2022, etc. batch

it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

We may also refer to the following observations in Paras 31 and 32 which show why the Constitutional Courts must exercise restraint in such matters:-

"31. On our part we may add that sympathy or compassion does not play any role in the



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

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 unenviable 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 in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

authorities put in equally great 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."

12. *The law is well settled that the onus is*



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

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. In Kanpur University case (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. *As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on*



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. *In the present case we find that all the 3 questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain text books. When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.*

15. *In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie*



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

view that the answer given by the Commission is correct.”

11. The aforesaid extract is self-explanatory. The ratio that when the Experts have evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion of the experts and array at its own conclusion, has been adopted consistently in various other decisions also, including this Court. When such powers have divested under a line of decisions rendered by the Hon'ble Supreme Court, including **Rahul Singh's case** (supra), this Court is unable to appreciate the grounds raised by the petitioners herein for the purpose of re-evaluating the questions to which the Experts in the concerned subjects have already rendered their opinion.

12. Above all, this Court, not being an expert in the subjects, would not venture into the exercise of elucidating the correct answers from the subject materials supplied by the petitioners herein. Furthermore, this Court finds no other reason as to why these disputed questions require re-evaluation by an another Expert Committee, when there are no sufficient materials questioning the competence of the earlier Expert Committee.



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

13. In this background, I do not intend to interfere with the recruitment that was already completed and the successful candidates have also been appointed long back and are now working in the respective posts. Hence, I do not find any merits in these Writ Petitions. Accordingly, all the Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14. Since the Contempt Petitions in these batch of cases arise from interim orders passed by this Court in some of the main Writ Petitions, no effective orders can be passed therein, in view of the dismissal of the main Writ Petitions and accordingly, these Contempt Petitions also stand closed.

14.10.2022

Index : Yes
Order : Speaking

vsm/DP

To

- 1.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
College Road, Chennai – 6.
- 2.The Secretary to Government,

15/17



WP(MD)Nos.16071/2022, etc. batch

WEB COPY

Government of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai.
3. The Director of School Education,
College Road, Nungampakkam,
Chennai – 600 008.

M.S.RAMESH, J.

vsm/DP

Order made in

W.P.(MD)Nos.16071/2022, 1597/2020, 2914/2021,
1595/2020, 868/2021, 1601/2020, 1899/2020, 722/2020,
1589/2020, 1592/2020, 1600/2020, 775/2020, 1593/2020,
1594/2020, 1596/2020, 1598/2020, 1599/2020, 1363/2020,
1368/2020, 1371/2020, 14139/2020, 15116/2020, 15135/2020,
16791/2020, 17360/2020, 17476/2020, 2482/2021
and 1761/2021 and connected W.M.Ps.
and Cont.P.(MD)Nos.1494 to 1496 and 1488 of 2021



WEB COPY



WP(MD)Nos.16071/2022, etc. batch

14.10.2022