



W.P.No.26209 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.26209 of 2021

and

W.M.P.No.27667 of 2021

1.The Union of India
rep. by the Secretary to Railways,
Ministry of Railways,
Rail Bhavan,
New Delhi - 110 001.

2.The Chairman,
Railway Recruitment Cell,
Southern Railway,
Headquarters Office,
Personnel Branch,
Chennai - 3.

...Petitioners

VS.



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1.The Registrar,
Central Administrative Tribunal
Madras Bench,
Chennai.

2.Rangu Sambasisva Rao

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records in O.A.No.310/0486/2018 on the file of the Central Administrative Tribunal, Madras Bench and quash the order dated 25.03.2021.

For Petitioners : Mr.P.T.Ramkumar

For Second Respondent: Mr.M.Padmanaban

R1 -Tribunal

ORDER

(Order of the Court was delivered by V. LAKSHMINARAYANAN, J.)

The Secretary to Railways of the Union of India and the Chairman, Railway Recruitment Cell, Southern Railway, are the petitioners. The 2nd respondent had applied for Group D vacancies



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in SR - 5185 and ICF - 265 totalling to 5450. This was pursuant to the employment Notification No.2 of 2013. Totally 16,94,717 applications were received and 11,26,393 applications were found to be eligible. The petitioners conducted written examination on five different dates in the month of November 2014. About 3,18,395 candidates took up the written examination. The 2nd respondent had secured 58.585 marks. This is out of a total of 100 marks. It is pertinent to point out here that the 2nd respondent had taken the examination in Telugu Medium. The petitioners had fixed 56.808 as a cut off, for those belonging to the OBC category for physical efficiency test. The petitioner having secured more than the cut off marks, was called for physical efficiency test. He qualified in this test. Totally 23,862 candidates had been summoned for physical efficiency test. Out of this number, only 21,974 candidates attended the same. From the physical efficiency test, 17,589 candidates were found eligible.



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2. Based on the performance in the written examination, 12,265 candidates were called for Certificate verification. The petitioners have fixed 60.605 marks, as the cut off for those belonging to the OBC category, for certificate verification. According to the petitioners, since the 2nd respondent had only secured 58.585 marks, he was not called for Certificate verification. The ground on which the petitioners allege the 2nd respondent had secured less marks was that he had given incorrect answers to Question No.82 and Question No.95 in the written examination.

3. As the case of the 2nd respondent was not considered, he filed O.A.No.310 /1752/2017 before the Central Administrative Tribunal, Madras Bench. This application was disposed of with a direction to the petitioners to consider the representation of the second respondent dated 18.08.2016. The Chairman, Railway Recruitment Cell, rejected the said representation on 06.02.2018. Challenging the same, another Original Application in O.A.No.310/0486/2018 was filed before the Central Administrative



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Tribunal, Chennai.

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4.The Central Administrative Tribunal took up the application for enquiry and directed the petitioners to file a counter. The prayer of the applicant before the Central Administrative Tribunal is as follows:

"In view of the facts and grounds mentioned in Para Nos.4 and 5 above, it is most respectfully prayed that this Hon'ble Tribunal may be pleader to call for the records of the proceedings No.RRC/353/OA 01752/2017 issued by the second respondent dated 06.02.2018 and quash the same in so much as the non-inclusion of the applicant's name in the list of candidates called for Certificate Verification and consequently direct the respondents to include the name of the applicant at the appropriate place in the light of the marks of 61.085 secured by him and pass such further order/orders as may be deemed fit and proper and thus render justice."



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The Central Administrative Tribunal, after receipt of the reply from the petitioners, went through the Questions and Answers and given the following findings:

(1)The answer given by the 2nd respondent to Question No.82 is correct and the key answer is wrong.

(2)With respect to Question No.95, the applicant had given the correct answer based on Telugu version *and*

(3)Since no doubt arose in this regard, there was no necessity for him to verify the English version.

and consequently, had directed the grant of one mark each for Question No.82 and Question No.95 and directed the petitioners to add 0.33 mark deducted towards negative marking and allowed the Original Application. Challenging the same, this Writ Petition has been filed.



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5.The entire issue revolves on Question No.95. Insofar as the Question No.82 is concerned, the learned counsel for the petitioner have conceded that the key answer is wrong and the answer given by the second respondent is correct. Consequently, the second respondent will be entitled to 1.33 marks in addition to 58.585 marks for Question No.82. The reason he is entitled to 1.33 marks is because for every correct answer, the candidate is given one mark for a correct answer and for three wrong answers, one mark is deducted. In other words, the weightage for negative marking is 0.33 per wrong answer. Since the answer given for Question No.82 is concedingly right and the key answer is wrong, the petitioner is entitled to 1.33 marks. The entire contest is with respect to question No.95.

6.The learned counsel for the petitioners would draw our attention to Question No.95 which reads as follows:



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[47]

93. $\log_2 \log_2 CO_2$ అనేది పరిమిత లాభమును సూచిస్తుంది.

- (1) $\log_2 \log_2$ (2) $\log_2 \log_2$
(3) $\log_2 \log_2$ (4) $\log_2 \log_2$

94. ఏదో ఒక అక్షరము వాడు కాదు.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

95. ఏదో ఒక ప్రధాన సంఖ్య?

- (1) 9 (2) 4
(3) 2 (4) 8

96. ఏదో ఒక అక్షరము అక్షరము ప్రధాన సంఖ్య.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

97. 24 మందిలో 36 మంది వారసులు ఒక రోజు (అన్ని వారసులు, 108 మంది వారసులు ఒక రోజులో (అన్ని వారసులు మొత్తం మొత్తం మొత్తం వారసులు).

- (1) 50 (2) 60
(3) 75 (4) 90

98. ఒక అక్షరము గణితము భారతదేశములో ఉత్పాదించబడుతుంది.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

99. అక్షరము మొత్తం అక్షరము.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

100. ఏదో ఒక ప్రధాన సంఖ్య అక్షరము.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము
(1) 10 మి/సె (2) 3.6 మి/సె
(3) 100 మి/సె (4) 36 మి/సె

92. ఒక అక్షరము అక్షరము అక్షరము అక్షరము.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

93. 5 సంఖ్యల యొక్క మొత్తం 25. ఒక సంఖ్యను తీసివేస్తే మొత్తం 25 అవుతుంది. తీసివేసిన సంఖ్య ఏమిటి?

- (1) 15 (2) 25
(3) 35 (4) 45

94. ఒక అక్షరము అక్షరము అక్షరము 168 అక్షరములు. ఒక అక్షరము ఎంత?

- (1) 9 (2) 11
(3) 13 (4) 17

95. భారత అక్షరము అక్షరము అక్షరము.

- (1) అక్షరము (2) అక్షరము
(3) అక్షరము (4) అక్షరము

96. $5 + 40 - 8 \times 2 - 3$ విలువ ఎంత?

- (1) 10 (2) 11
(3) 12 (4) 13

97. ఏదో ఒక సంఖ్య అక్షరము అక్షరము.

- (1) 9 (2) 4
(3) 6 (4) 8

98. ఏదో ఒక సంఖ్య?

- (1) $-4 > -5$ (2) $-4 < -5$
(3) $4 < -5$ (4) $4 > -5$

99. 5 అక్షరము అక్షరము అక్షరము అక్షరము. అక్షరము అక్షరము. అక్షరము అక్షరము. అక్షరము అక్షరము.

- (1) $5+x$ (2) $5-x$
(3) $5/x$ (4) $5x$

100. అక్షరము అక్షరము అక్షరము అక్షరము. అక్షరము అక్షరము అక్షరము అక్షరము.

- (1) 80% (2) 50%
(3) 70% (4) 60%

(Turn over)

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7. According to the learned counsel for the petitioners, the correct answer for Question No.95 is Answer No.4 (Krishi) and not Answer No.2 (Vyavasayam). He also invited our attention to the Instructions given to the candidate in particular Instruction No.5 which reads as follows:

*"In case of any doubt between the versions,
English version shall prevail and it may be referred to"*

8. According to the learned counsel for the petitioners, the Central Administrative Tribunal had not applied its mind to the case before it and had allowed the application. He also submitted that the English version is correct. According to the English version, the Answer is No.4 and not Answer No.2.

9. Rebutting this argument, the learned counsel for the 2nd respondent would submit that the 2nd respondent had correctly answered both the questions and therefore, reducing 2.66 marks is arbitrary. He would further submit that due to the mistake committed by the writ petitioners, the 2nd respondent should not suffer.



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10. We have gone through the Original Application, reply and the rejoinder filed thereto. We have carefully perused the impugned order. In addition, in order to satisfy ourselves, we have also gone through *Telugu Dictionary, Dictionary - English-Telugu by Charles Philip Brown - Explaining the English Idioms and Phrases with the pronunciation of English words, Asian Educational Services, New Delhi - Madras - 1998*, available in this Court. We have also taken the assistance of Ms.Vimala, the Official Telugu Translator attached to the Translation and Printing Department of this Court.

11. The entire case on narrow compass as to whether the word "Vyavasayam" means "Agriculture" in Telugu or not?. The Telugu Dictionary referred by us confirms that the answer of the 2nd respondent is correct. The Official Translator, who went through Question No.95, and also confirmed that "Vyavasayam" means Agriculture. It seems to be an error committed by the writ petitioners that, instead of typing "Vyabaram", they had in Telugu typed it as



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"Vyavasayam". The relevant portion from the dictionary are as

follows:

Agriculture, ag'ri-cul-ture, n. s. కృషి, వ్యవసాయము, పేద్యము.

వ్యవసాయము *vyavasayamu*. [Skt.] n. Effort, attempt, industry. ఉద్యోగము, పరిశ్రమ. Cultivation, tillage. కృషి, పేద్యము. వ్యవసాయముచేయు to cultivate, పేద్యముచేయు. వ్యవసాయి or వ్యవసాయముడు *vyavasayi*. n. A cultivator, husbandman, farmer, వ్యవసాయముగలవాడు.

కృషి *krishi*. [Skt.] n. Cultivation, husbandry, agriculture, ploughing, cultivating the soil. పేద్యము. Labour, exertion ప్రయాస, శ్రమ. కృషికుడు or కృషివలకుడు *krishi-kudu*. n. A cultivator, a husbandman. పేద్యకాడు.

The question of referring to the English version of the question papers would arise only if the candidate has a doubt in the answers that he is giving. The question that was posed in English is

Question No.95:

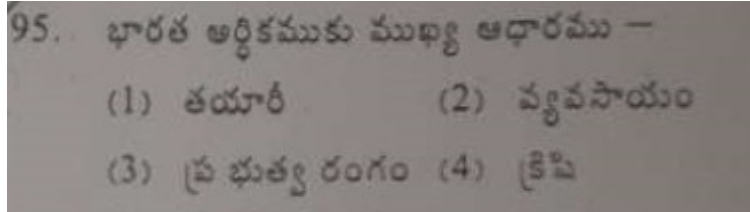
The Mainstay of the Indian Economy is-



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- (1)Manufacturing (2)Business (3)Public Sector
(4)Agriculture

Similarly, in Telugu version, it has been given as follows:



12.The writ petitioners have committed an error in typing the word "Vyavasayam" instead of "Vyabaram". Instead of accepting the error and taking steps to rectify the same, they have taken a position in their order dated 06.02.2018 as well as before the Central Administrative Tribunal and before this Court that "Vyavasayam" and "Vyabaram" mean one and the same. Our understanding is that business and agriculture are not one and the same. The 2nd respondent has given the correct answer that the Mainstay of the Indian Economy is - Agriculture. He cannot be deprived of the marks which he is justly entitled to.

13.In the impugned order, the 2nd writ petitioner has taken a stand that the list of answers given, tally with the list of answers



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provided in English. This is factually wrong. For the mistake of the petitioners, the second respondent cannot suffer. It is also clear from the order dated 06.02.2018 that there is only one candidate who has raised the issue, i.e, the 2nd respondent. Therefore, no prejudice will be caused to the writ petitioners, if 2.66 marks is awarded to the 2nd respondent. The order of the Tribunal cannot be found fault with.

We do not find any factual error or procedural irregularity or impropriety passed by the Central Administrative Tribunal, Chennai. No other points were argued before us. We do not find any perversity in the order. Hence, the order of the Central Administrative Tribunal is confirmed and the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V., J) (V.L.N., J)
12.04.2023

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V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.

mps

Orders in
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12.04.2023