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W.P.No.22538 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 12..09..2023

Orders Pronounced on : 09..10..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.22538 of 2022
and
W.M.P.Nos.21562 and 21563 of 2022

T.Anbalagan

..... Petitioner

-Versus-

1.The Government of Tamil Nadu,
Rep. By its Principal Secretary,
School Education Department,
Fort St. George, Chennai 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
3rd Floor,
Puratchi Thalaivar Dr.MGR Centenary Building,
DPI Campus, College Road,
Chennai 600 006.

3.The Director of School Education,
DPI Compound, College Road,
Chennai 600006.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to
issue a Writ of Certiorarified Mandamus calling for the records relating to the



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second respondent herein from deleting the question Nos.47, 85 and 99 from evaluation in final key answers released for the examination conducted for Direct Recruitment for the post of Post Graduate Assistants for Commerce post for the year 2020-2021 is concerned and to quash the same and consequently award full three marks for the said questions to the petitioner or all the candidates who have answered the said questions in the examination.

For Petitioner : *Mr.R.S.Anandan*

For Respondent (s) : *Mr.P.Baladhandayutham,*
Special Government Pleader
for RR1 & 3
Mr.R.Neelakandan,
Additional Advocate General
Assisted by Mr.C.Kathiravan,
Standing Counsel for R2

ORDER

This writ petition has been challenging deletion of Question Nos.47, 85 & 99 from valuation in final key answers released for the examination conducted for direct recruitment for the post of Post Graduate Assistants for Commerce subject for the year 2020-21.

2. The petitioner is an aspirant for the post of Post Graduate Assistant (Commerce). He belongs to Most Backward Class (MBC) community. He is fully qualified to apply for the post and he applied for the post pursuant to the Notification / Advertisement No.01/2021 dated 09.09.2021 issued by the 2nd respondent for direct recruitment to the post of Post Graduate Assistants /



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Physical Education Directors Grade-I/Computer Instructor Grade-I in School

Education Department and other Departments for the year 2020-2021. There is no dispute in it. There is also no dispute regarding the Scheme of Examination. His roll/register number is 21PG121002383. He had taken the written examination on 13.02.2022 and secured 72 out of 147 marks. The grievance of the petitioner is that the answers which he had opted for Question Nos.47, 85 & 99 are correct and if he had been given marks for those questions, he would have been considered for certificate verification and selected for appointment.

3. Since the petitioner failed to secure the cut-off marks pertaining to MBC category, he was not selected. It is the stand of the petitioner that key answers set in respect of Question Nos.47, 85 & 99 are demonstrably and palpably wrong and that therefore, he should have been awarded marks for those questions also.

4. The respondent board filed its counter affidavit denying the allegations made in the writ petition and inter alia contending that objections were received from the candidates in respect of certain questions that key answers were wrong and an expert body was constituted and based on the opinion of the expert body certain key answers were revised and marks were given to the candidates. Therefore, now, it is not open to the petitioner to raise the same



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objection before this court as second round.

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5. The learned counsel appearing for the petitioner took this court through the materials submitted during the course of argument in the form of typed set of papers in support of his submission that the answers opted by the petitioner are correct and the key answers are wrong and the petitioner is entitled to get marks for Question Nos.47, 85 & 99.

6. Per contra, the learned Additional Advocate General appearing on behalf of the learned standing counsel on record for the TRB taking this court through the counter affidavit submitted that questions setters were experts in their respective fields and the objections were referred to a expert body, who were also experts in the field. The expert body after examining the objections submitted its report that answers to certain questions were wrong. When there was an effective mechanism evolved by the TRB to raise objection to key answer, if any, and the objections raised by the candidates were already considered by the expert body, the petitioner cannot raise the same claim once again before this court. Further, according to him, the books relied on by the petitioner to prove the errors were not the materials authorised by the State.

7. This court had called upon the TRB to produce the experts opinion justifying the key answers. Report of the expert body was accordingly



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produced.

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8. This court has considered the rival submissions carefully and gone through the materials on record including the report of the expert body.

9. In the case of **Kanpur University v. Samir Gupta** [(1983) 4 SCC 309], the Supreme Court has held that it should be presumed that the key answers set by the paper setters are correct, unless it is demonstrably wrong.

10. It is also the settled law that this court cannot conduct itself like an expert and go into the correctness of the key answers set to the questions by the paper setters and affirmed or revised by the expert body based certain concrete materials.

11. In **Ran Vijay Singh v. State of U.P.** [(2018) 2 SCC 357], the Supreme Court has held as under:-

“**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 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,



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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.”

12. In the case of *U.P. Public Service Commission v. Rahul Singh*, [(2018) 7 SCC 254], while reiterating the law on the subject, the Supreme Court the has held as under:-

12. 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. In *Kanpur University case* [Kanpur



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there is no provision for revaluation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for revaluation in a situation where a candidate despite having given correct answer and about which there cannot be even slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any mark.”

14. Very recently in the case of **Vikesh Kumar Gupta v. State of Rajasthan [(2021) 2 SCC 309]**, after considering a catena of decisions on the scope of judicial review with regard to reevaluation of the answer sheets, the Supreme Court observed and held that the court should not re-evaluate or scrutinise the answer sheets of a candidate as it had no expertise in the matter and the academic matters are best left to academics.

15 The candidates who took the written examination were given an opportunity to submit their objections, if any, to the tentative key answers published by the TRB through online objection tracker. It seems that the



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petitioner has not made any objection at the relevant point of time. However, based on the objections received from the other candidates, an expert body was constituted to go into the correctness of the key answers. The experts opined that all the option given for those disputed questions are wrong. Therefore, those questions were deleted from valuation. According to the TRB, valuation of the answer sheets was done by them based on the opinion of the expert body.

16. This court is not an expert in the academic matter. The scope of the judicial review against the experts' opinion is extremely limited and unless it is shown that the mistake is a glaring mistake which is totally apparent, the view of the examining body cannot be interfered with. Taking into account the guiding principles on the power of judicial review, this court does not want to assume the role of an academic expert. The emphasis in the case of Rahul Singh was that not only the onus is on the candidates to demonstrate that the key answer was incorrect, but also that it is a glaring mistake which is totally apparent and no inferential process of reasoning is required to show that the key answer was wrong.

17. Though it has been asserted by the petitioner that the answers which he had opted for Question Nos.47, 85 & 99 are only correct, those questions have been deleted from valuation and the total mark was reduced from 150 to



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147 and as such the question of re-examining the correctness of the key answer would not arise. Therefore, this court does not find any merit in the writ petition and it deserves to be dismissed.

In the result, the writ petition is dismissed. No costs. Consequently, connected WMPs are closed.

09..10..2023

Index : yes / no
Neutral Citation : yes / no
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To

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School Education Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
3rd Floor,
Puratchi Thalaivar Dr.MGR Centenary Building,
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3.The Director of School Education,
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Chennai 600006.



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N.SATHISH KUMAR.J.,

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Pre delivery Order
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