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W.P.No.22256 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.22256 of 2022

and

W.M.P.Nos.21279 & 21280 of 2022

M.Bharathidasan

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of School Education,
Secretariat, Chennai 600 009.

2.The Commissioner / Director,
School Education Department,
DPI Campus, College Road,
Chennai 600 006.

3.The Teachers Recruitment Board,
Rep. by its Member Secretary,
DPI Campus, College Road,
Chennai 600006.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the 3rd Respondent to award 2 marks and permit the petitioner to participate in the forthwith certificate verification for the post of P.G. Assistant (Economics) as per the notification of the 3rd



W.P.No.22256 of 2022

Respondent dated 09.09.2021 in Advertisement No. 01/2021 and consequently direct the 2nd respondent to appoint the Petitioner as P.G. Assistant (Economics) in the School Education Department.

*For Petitioner : Mr.M.R.Jothimanian
for Mr.K.Balu*

*For Respondent (s) : Mr.P.Baladhandayutham,
Special Government Pleader
for RR1 & 2
Mr.R.Neelakandan,
Additional Advocate General
Assisted by Mr.C.Kathiravan,
Standing Counsel for R3*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the 3rd respondent to award 2 marks as the Key Answers set for Question Nos.23 & 110 are wrong and the answers opted by the petitioner were only correct and permit the petitioner to participate in the forthwith certificate verification for the post of P.G. Assistant (Economics)

2. The petitioner is an aspirant for the post of Post Graduate Assistant (Economics). 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 3rd respondent for direct recruitment to the post of Post Graduate Assistants / Physical Education Directors Grade-I/Computer Instructor Grade-I in School



W.P.No.22256 of 2022

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 register/roll number is 21PG1028121821. He had taken the written examination on 15.02.2022 and secured 74 out of 150 marks. The grievance of the petitioner is that the answers which he had given to Question Nos.23 & 110 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.23 & 110 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 objection before this court as second round.



W.P.No.22256 of 2022

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.23 & 110.

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 produced.



W.P.No.22256 of 2022

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, without any “inferential process of reasoning or by a



W.P.No.22256 of 2022

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 University v. Samir Gupta*, (1983) 4 SCC 309], the



W.P.No.22256 of 2022

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.”

.....

14. In the present case, we find that all the three 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 textbooks. 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.”

13. In the case of **High Court of Tripura v. Tirtha Sarthi Mukherjee and others [(2019) 2 Scale 708]**, the Supreme Court has held as under:-

"19. The question however arises whether even if there is no legal right to demand revaluation as of right could there arise circumstances which leaves the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for revaluation it turns out that



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W.P.No.22256 of 2022

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. Based on the objections received from the candidates, an expert body was constituted to go into the



W.P.No.22256 of 2022

correctness of the key answers. According to the TRB, valuation of the answer sheets was done by them based on the opinion of the expert body.

16. The correctness of the Key Answers set to the Question Nos.23 & 110 by the TRB are now under challenge.

17. Let this court now examine the challenges to the key answers made in the writ petitions one after the other keeping in mind the principle laid down by the Supreme Court referred to herein above.

18. The first challenge is to the Question No.23 which reads asunder:-

_____ determines the position of IS curve.

- (A) Government Expenditure
- (B) Private Expenditure
- (C) Rate of Interest
- (D) Money supply

The key answer is option “A”. According to the petitioner, option “C” is the correct answer. The petitioner has not made any objection through online tracker and for the first time he raised such an objection in this writ petition. The experts opined that setter reference is correct. The material on the basis of which they came to the conclusion as regards the correct and final key answer to the subject question was produced before this court. They relied on the book titled “Microeconomic Analysis” by H.L.Aluja wherein it has been stated that it is the level of autonomous expenditure such as Government Expenditure,



W.P.No.22256 of 2022

transfer payments which determines the position of the IS curve.

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19. 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. The petitioner has not even demonstrated that the answer for the question in the final key was palpably wrong.

20. In the light of the settled legal position on the subject, this court do not want to assume the role of an expert and go into the correctness of the key answer which had already been gone into and affirmed by the expert committee based on certain concrete materials and revisit the same in exercise of its powers under Article 226 of the Constitution of India and arrive at its own conclusion to substitute the opinion of the expert. Though the argument put forth by the learned counsel for the petitioner in support of the answer opted by petitioner



W.P.No.22256 of 2022

for Question No.23 prima facie appears to be attractive, this court cannot go by the materials produced by the petitioner to arrive at a different conclusion. In the event of any doubt over the correctness of answer key, as held by the Supreme Court in Ran Vijay Singh's cases cited supra, benefit must be given to the examining body and not to the candidates. Therefore, this court do not want to revisit the opinion of the expert committee and the challenge made to the Question No.23 is rejected.

21. The other challenge is to the Question No.110 which reads as under:-

Of the total outlay of the 9th five year plan which sector was allocated the maximum

- (A) Irrigation and Flood Control
- (B) Agriculture and Rural Activities
- (C) Energy
- (D) Social Services

The key answer is option “B”. According to the petitioner option “C” Energy Sector is the correct answer. For this question also, the petitioner has not made any objection through online tracker and for the first time he raised such an objection in this writ petition. The experts based on the the book titled “INDIAN ECONOMY – Problems, Policies and Development” opined that option “B” is correct. When this questions was put to challenge in W.P.(MD)



W.P.No.22256 of 2022

No.23635 of 2022 [T.Kalaiselvi v. The Teachers Recruitment Board dated

21.06.2023], the Madurai Bench of this Court upon considering the materials

placed before it, concluded that option “C” Energy sector is the correct answer

and therefore, held that the petitioner therein is entitled to be awarded one mark

for that question. However, the learned judge of this court has held that the

benefit of that order would enure in favour of the petitioner alone and it shall

not open any flood gates. The said order was obviously passed on 21.06.2023.

This writ petition was filed on 22.08.2023 and therefore no delay or laches

could be attributed to the petitioner. Thus the order passed in W.P.No.23635 of

2022 will govern this question. Therefore, the petitioner herein is also entitled to

be awarded one more mark. It is made clear that the benefit of this order will

enure in favour of the petitioner alone and it shall not open any floodgate.

22. In view of the above discussion, the petitioner is entitled to be awarded mark for Question No.110 and the challenge in respect of the other question is rejected.

In the result, The TRB shall award mark to the petitioner for Question No.110 and revise the total mark secured by the petitioner. The right of the



W.P.No.22256 of 2022

petitioner to be appointed as PG Assistant (Economics) will abide by the said revision. It is made clear that since the selection process has already been over and the interest of the petitioner has been protected by way of interim order of this court, the benefit of this order will enure in favour of the petitioner and the candidates who have approached the court promptly by initiating legal proceedings and the TRB shall not extend the benefit of this order to any of the other candidates.

The writ petition is disposed of accordingly with the above directions. No costs. Consequently, connected WMPs are closed.

09..10..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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W.P.No.22256 of 2022

To
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- 1.The Principal Secretary to Government,
Department of School Education,
Secretariat, Chennai 600 009.
- 2.The Commissioner / Director,
School Education Department,
DPI Campus, College Road,
Chennai 600 006.
- 3.The Member Secretary,
Teachers Recruitment Board,
DPI Campus, College Road,
Chennai 600006.



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W.P.No.22256 of 2022

N.SATHISH KUMAR.J.,

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Pre delivery Order
in
W.P.No.22256 of 2022

09..10..2023