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W.P.No.23763 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.23763 of 2022

and

W.M.P.Nos.22727 & 22729 of 2022

N.Karthikeyan

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. by 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 Teachers Recruitment Board,
Rep. by its Member Secretary,
DPI Campus, College Road,
Chennai 600 006.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the 3rd Respondent to award 5 marks to the petitioner for the post of Post Graduate Assistant (Mathematics) as per the notification of the 3rd respondent dated 09.09.2021 in Advertisement



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NO.01/2021 and consequently direct the respondents to appoint the petitioner as of P.G. Assistant (Mathematics) in the School Education Department forthwith.

For Petitioner : Mr.M.R.Jothimanian

*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 5 marks to the petitioner for the post of Post Graduate Assistant (Mathematics) as per the notification of the 3rd respondent dated 09.09.2021 in Advertisement NO.01/2021 and consequently direct the respondents to appoint the petitioner as of P.G. Assistant (Mathematics) in the School Education Department forthwith.

2. The petitioner is an aspirant for the post of Post Graduate Assistant (Mathematics). 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 /



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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. There is also no dispute with regard to the method adopted by the TRB to convert the raw marks to normalized marks. His register/roll number is 21PG0804158821. He had taken the written examination on 16.02.2022 and secured 103.63 out of 150 marks. The grievance of the petitioner is that the answers which he had given to Question Nos.2, 25, 34, 129 & 143 are correct and if he had been given marks for those questions, he would have reached the cut-off and thus, 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.2, 25, 34, 129 & 143 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



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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.

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.2, 25, 34, 129 & 143.

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



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petitioner to prove the errors were not the materials authorised by the State.

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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.

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



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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.”

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



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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 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 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 re-evaluation 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.



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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 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 Questions Nos. 2, 25, 34, 129 & 143 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 another keeping in mind the principle laid down by the Supreme Court referred to herein above.

18. The first challenge is to the Question No.2 which reads as under:-

If F be a finite field of characteristic p and $|F| = p^n$

then $\text{Aut}(F)$ is called _____ group of order n .

- (A) Abelian group
- (B) Finite group
- (C) Infinite group
- (D) Cyclic group

The key answer is option “D”. According to the petitioner, option “A” is also correct answer. However, the experts opined that option “D” is the best answer.



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They relied on the book titled “Algebra” by U.M.Swamy. The material produced by the respondents would only substantiate the stand of the TRB.

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 wrong. This court does not find that the answer provided in the answer key for Question No.2 is demonstrably wrong and incorrect to fall within the parameters set by the Supreme court warranting judicial interference. Therefore, the challenge to this question is rejected accordingly.

20. The second challenge is to the Question No.25 which reads as follows:-



Find the initial basic feasible solution of the following transportation problem by Vogel's approximation method.

		Warehouses				Capacity
		W ₁	W ₂	W ₃	W ₄	
Factory	F ₁	19	30	50	10	7
	F ₂	20	30	40	60	9
	F ₃	40	8	20	20	18
Requirement		5	8	7	4	34

The key answer is option “D”. According to the petitioner, all the options are incorrect and very framing of question itself was wrong. However, it is seen from the records that the experts opined that option “D” to be the correct answer. The subject experts relied on the book titled “Operation The book titled “Operations Research Theory and Applications” by J.K.Sharma. 21.

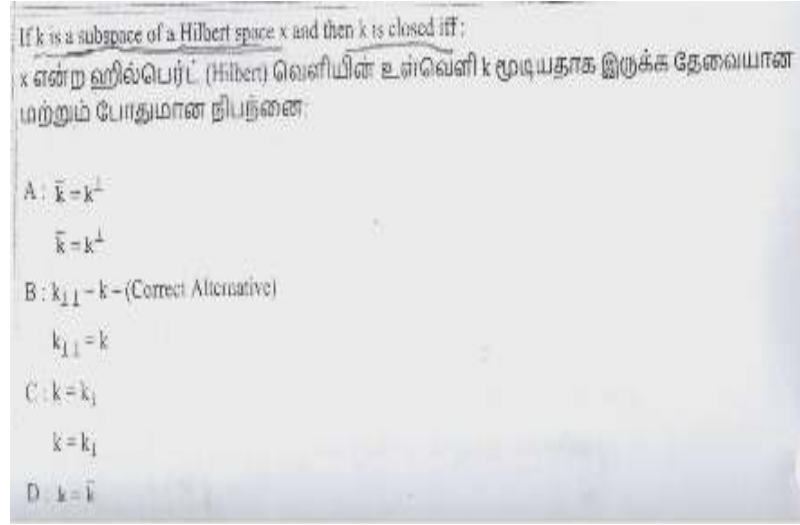
The petitioner has not even demonstrated that the answer for the question in the final key was wrong. In view of the reasons already assigned for the first challenge, this court does not find that the answer provided in the answer key for Question No.25 is demonstrably wrong and incorrect to fall within the parameters set by the Supreme court warranting judicial interference. Therefore, this court has no option except to go by the determined opinion expressed by the subject experts. Therefore, the challenge to this question is rejected.



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22. The third challenge is to the Question No.34 which reads as under:-

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The key answer is option “B”. According to the petitioner, the very framing of question itself was wrong as the word “linear” had been missing and therefore, theorem is always with symbol at “top”, but, answer symbol 'k₁₁' is totally wrong and against the theorem. This petitioner has not even made his objection through online objection tracker. The experts opined option “B” to be the correct answer. They relied on the book titled “Foundations of Functional Analysis” by S.Ponnusamy.

23. The petitioner has not even demonstrated that the answer for the question in the final key was wrong. In view of the reasons already assigned for the first challenge, this court does not find that the answer provided in the answer key for Question No.34 is demonstrably wrong and incorrect to fall within the parameters set by the Supreme court warranting judicial interference.



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Therefore, this court has no option except to go by the determined opinion expressed by the subject experts. Therefore, this challenge is also not sustainable and therefore, the same is hereby rejected.

24. The fourth challenge is to the Question No.129 which reads as under:-

Tachistoscope is first introduced by:

- (A) Freud
- (B) Gardener
- (C) Cantell
- (D) Sheldon

The key answer is option “C”. According to the petitioner, all the options are incorrect since Tachistoscope was introduced by Cattell. However, relying upon the book titled” Essential of Educational Psychology” by S.K.Mangal wherein it has been stated that Cattell in 1986-97 conducted a serious of experiments for studying the phenomenon of span of attention by using simple machine type instrument known as Tachistroscope. The petitioner cannot take advantage of a spelling error. Neither the question nor the options are ambiguous. For the reasons already stated by this court, the contention of the petitioner cannot be countenanced. Therefore, the challenge to this question is also rejected.

25. The fifth and last challenge is to Question No.143 which reads as



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under:-

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“Consider the statements given below and choose the right option from the given:

Statement-I : Tropical Evergreen forest is found in the regions that receive heavy rainfall.

Statement-II : Tropical Evergreen forest is a dense, multilayered forest. It is found in the upper slopes of Western Ghats of Thirunelveli, Kanya kumari, the Nilgiris and Coimbatore districts.

A : Statement – I is Right. Statement – II is wrong

B : Statement – I is Wrong. Statement – II is Right

C : Statement – I and Statement – II are right

D : Statement – I and Statement – II are Wrong

The answer to this question in the tentative key was option “C”. However, as there are, admittedly, multiple answers, the question itself was deleted in the final key from the valuation.

26. When the similar question was put under challenge in W.P.(MD) No.22105 of 2022, a learned single Judge of Madurai Bench of this Court by order dated 15.11.2022 has held as under:-

“9. The petitioner had mentioned “Option C” as the correct answer. Since objections were received from candidates that there are multiple answers, the question itself was deleted.



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10. I called upon the learned standing counsel to justify the deletion.

.....

From a reading of the material relied on by the academic experts, one can safely come to the conclusion that the tentative key was correct. “Option C” was the only correct answer. Option A,B and D could not have been correct answers. On the own showing of the respondents themselves, the deletion has been demonstrated to be arbitrary.

11. I direct the respondents to award one extra mark to the writ petitioner for the aforesaid question. Even though the learned Standing Counsel would strongly argue that in matters such as this, there cannot be any interference, relying on the order dated 02.11.2022 in W.P.No.22129 of 2022, I grant relief to the petitioner herein. It is true that the petitioner herein belongs to Scheduled Caste community. He also appears to be eligible under PSTM category. It is also further stated that vacancies are still available. “Option C” was correct and it was rightly shown as correct answer in the tentative key. Deletion of this question when the final key was published is demonstrably arbitrary. I stop with directing the respondents to award one extra mark to the writ petitioner. The consequential rights of the petitioner



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are not gone into. It is for the respondents to take appropriate action in accordance with law.”

27. This writ petition was filed much prior to the order of the Madurai Bench or this Court referred to supra. When this court has already granted relief to a similarly placed candidate, the petitioner who filed the present writ petition promptly is also entitled to be awarded mark for Question No.143.

28. In view of the above discussions, the petitioner is entitled to be awarded mark for Question No.143 and challenge in respect of the other questions is rejected.

In the result, The TRB will award mark to the petitioner for Question No.143 and revise the total mark secured by the petitioner. The right of the petitioner to be appointed as PG Assistant (Maths) 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.



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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

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Department of School Education,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
- 2.The Commissioner / Director,
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DPI Campus, College Road,
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N.SATHISH KUMAR.J.,

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Pre delivery Order
in
W.P.No.23763 of 2022

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