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W.P.No.23765 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.23765 of 2022
and
W.M.P.Nos.22730 & 22731 of 2022

L.Arunothaya Thirukumaran

..... 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 P.G. Assistant (Mathematics) as per the notification of the 3rd respondent dated 09.09.2021 in Advertisement



W.P.No.23765 of 2022

No.01/2021 and consequently direct respondents to appoint the Petitioner as 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 P.G. Assistant (Mathematics) as per the notification of the 3rd respondent dated 09.09.2021 in Advertisement No.01/2021 and consequently direct respondents to appoint the Petitioner as 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 Backward Class (BC) 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.23765 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.

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 21PG0828208251. He had taken the written examination on 16.02.2022 and secured 100.54 out of 150 marks. The grievance of the petitioner is that the answers which she had given to Question Nos.2, 34, 67, 124 & 131 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 BC category, he was not selected. It is the stand of the petitioner that key answers set in respect of Question Nos.2, 34, 67, 124 & 131 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



W.P.No.23765 of 2022

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, 34, 67, 124 & 131.

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.



W.P.No.23765 of 2022

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 an examination does not permit re-evaluation or



W.P.No.23765 of 2022

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 wrong. The constitutional courts must exercise great



W.P.No.23765 of 2022

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



W.P.No.23765 of 2022

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 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



W.P.No.23765 of 2022

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, 34, 67, 124 & 131 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.



W.P.No.23765 of 2022

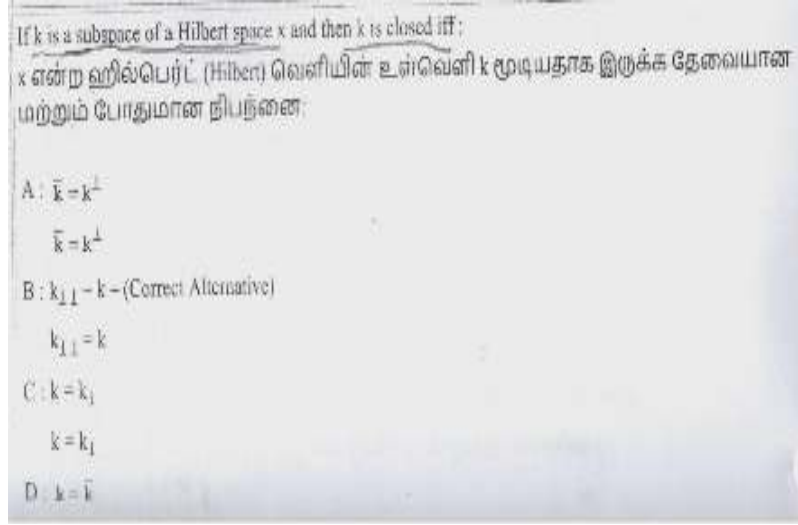
They relied on the book titled “Algebra” by U.M.Swamy. The material produced by the respondents would only substantiate the stand of the TRB.

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.34 which reads as under:-



W.P.No.23765 of 2022



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 ' k_{11} ' is totally wrong and against the theorem. This petitioner has not even made his objection to this or any of the questions challenged herein 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.

21. The petitioner has not even demonstrated that the answer for the question in the final key was wrong. The material produced would only substantiate the stand of the TRB. This court is not an expert in the academic subject. 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 is demonstrably wrong and incorrect to fall within the parameters set by the

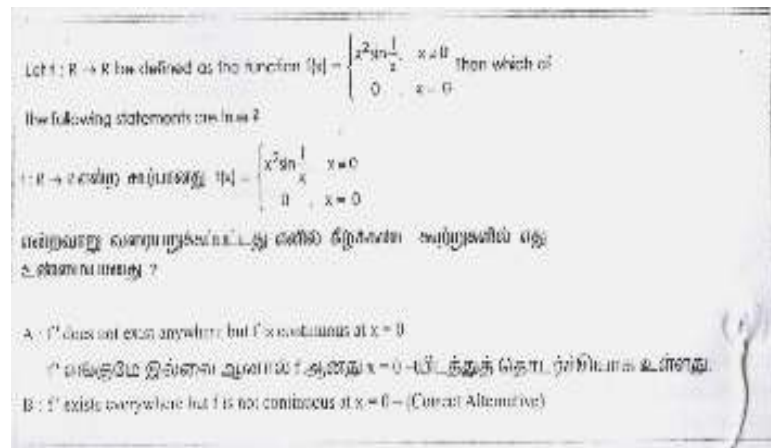


W.P.No.23765 of 2022

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.

22. The third challenge is to the Question No.67 which reads as under:-



The key answer is option “B”. According to the petitioner option “C” which he had opted is the correct answer. The experts relying on the book titled “Methods of Real Analysis” by Richard R.Goldberg opined that option “B” to be the correct answer. The petitioner has not only failed to raise objection to the key answer at the relevant point of time but also failed to demonstrate before this court that the key answer for this question is palpably 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 the question is demonstrably wrong and incorrect to fall within the parameters set by the Supreme court warranting



W.P.No.23765 of 2022

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.

23. The fourth challenge is to the Question No.124 which reads as under:-

Which among the following is not the principle of Guidance:

- (A) Continuous process
- (B) Based on flexible code of ethics
- (C) Organized service
- (D) Slow Process

The key answer is option “D”. According to the petitioner, option “B” is the correct answer. The experts opined that option “D” is the correct answer. They relied upon the book titled “Psychology of Learning and Human Development” by Prof. K.Nagarajan and Prof. R.Srinivasan. 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.124 is demonstrably wrong and incorrect to fall within the parameters set by the Supreme court warranting judicial interference. Therefore, this court has no



W.P.No.23765 of 2022

option except to go by the determined opinion expressed by the subject experts.

Therefore, the challenge to this question is rejected.

24. The fifth challenge is to the Question No.131 which reads as under:-

The gland responsible for many changes in the personality is:

- (A) Thyroid Gland
- (B) Pituitary gland
- (C) Adrenal gland
- (D) Ductless gland

The key answer is option “D”. According to the petitioner there are multiple answers and as he had opted for “B” he should be given mark. The experts opined that option “D” is the correct answer. They relied upon the book titled “Psychology of Learning and Human Development” by Prof. K.Nagarajan and Prof. R.Srinivasan. 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.131 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.

25. In view of the settled legal position on the subject, this court does not find any merit in the writ petition and the same deserves only to be dismissed.



W.P.No.23765 of 2022

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
Speaking / Non Speaking Order
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To

- 1.The Principal Secretary to Government,
Department of School Education,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
- 2.The Commissioner / Director,
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W.P.No.23765 of 2022

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Pre delivery Order
in
W.P.No.23765 of 2022

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