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W.P.No.24888 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.24888 of 2022

and

W.M.P.Nos.23826 of 2023

C.Pushpanathan

..... Petitioner

-Versus-

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

2.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006.

3.The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Maaligai,
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 respondents to properly evaluate the



W.P.No.24888 of 2022

Question No.18, 59, 68, 70, 89 & 109 based on the approved text book materials and award marks to the petitioner for Question Nos.18, 59, 68, 70, 89 & 109 and select and appoint the petitioner (21PG1102080360) to the post of Post Graduate Assistant in Botany under SC category in accordance with the merits in the selection, based on the representation dated 13.07.2022 and 29.08.2022 within a time frame to be fixed by this court.

For Petitioner : *Mr.G.Sankaran,*
Senior Counsel
for Mr.S.Nedunchezhiyan

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 2nd respondent to award 6 marks as the Key Answers set for Question Nos.18, 59, 68, 70, 89 & 109 are wrong and the answers opted by the petitioner were only correct and seeking consequential directions for certificate verification and appointment as P.G. Assistant (Botany).

2. The petitioner is an aspirant for the post of Post Graduate Assistant (Botany). He belongs to Scheduled Caste (SC) community. He is fully qualified to apply for the post and he applied for the post pursuant to the Notification /



W.P.No.24888 of 2022

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 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 21PG1102080360. He had taken the written examination on 15.02.2022 and secured 78 out of 148 marks. The grievance of the petitioner is that the answers which he had given to Question Nos.18, 59, 68, 70, 89 & 109 are correct and if he had been given marks for those questions, he would have reached the cut-off mark 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 SC category, he was not selected. It is the stand of the petitioner that key answers set in respect of Question Nos.18, 59, 68, 70, 89 & 109 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



W.P.No.24888 of 2022

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.18, 59, 68, 70, 89 & 109.

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



W.P.No.24888 of 2022

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



WEB COPY



W.P.No.24888 of 2022

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



W.P.No.24888 of 2022

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



WEB COPY



W.P.No.24888 of 2022

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 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.



W.P.No.24888 of 2022

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. 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.

17. The correctness of the Key Answers set to Question Nos.18, 59, 68, 70, 89 & 109 by the TRB are now under challenge. The corresponding Numbers in the question paper relating to the petitioner are Question Nos.5, 21, 72, 31, 37 & 140.

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

Slime Papillae produced in:

- (A) Anthoceros
- (B) Cycas
- (C) Sphagnum
- (D) Funaria

The key answer is option “A” Anthoceros. According to the petitioner option



W.P.No.24888 of 2022

“C” Sphagnum which he had chosen is the correct answer. The opinion of the experts indicate that option “A” is the correct answer. The objection of the petitioner to this question was rejected by the TRB based on the opinion of the subject experts. The experts relied on the book titled “Botany – Part III – Bryophyta” by B.R.Vashishta, revised by Dr.A.K.Sinha and Dr.Adarsh Kumar. In the said the book it is stated as under:-

“Ridgeway (1967) and Rodgers and Steward (1977) reported that the presence of developing nostoc colonies in cavities induces the development of branched filamentous protrusions consisting of hyaline cells on the host cavity wall opposite the slime pore. These filamentous protrusions penetrate the algal colonies and are referred to as “slime papillae” by some workers. The latter presume that the “slime papillae” produce slime which fills the cavities (Schuster, 1966).

The commonly held view is that the development of filamentous protrusions on the Anthoceros cavity wall increase the surface area of the Notoc-Anthoceros interface.”

Thus, the material placed before this court 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



W.P.No.24888 of 2022

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 demonstrated that the key answer set by the TRB is wrong. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option set by the TRB for this question cannot be said to be palpably wrong. Therefore, this challenge is rejected. Therefore, this challenge is rejected.

20. The second challenge is to Question No.59, which reads as under:-

Number of Eras in Geological time scale is:

- (A) 3
- (B) 5
- (C) 4
- (D) 6

The key answer is option “C”. According to the petitioner, option “B” is the correct answer. The opinion of the experts indicate that option “C” is the correct



W.P.No.24888 of 2022

answer. The objection of the petitioner to this question was rejected by the TRB based on the opinion of the subject experts. The experts relied on a book titled “A Textbook of Botany” Vol.II, Thirteenth Edition by S.N.Pandey and others which says 4 Eras. Thus, the material placed before this court substantiate the stand of the TRB. The petitioner has not demonstrated that the key answer set by the TRB is wrong. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option set by the TRB for this question cannot be said to be palpably wrong. Therefore, this challenge is rejected. Therefore, this challenge is rejected.

21. The third challenge is to Question No.68, which reads as under:-

- (A) Aspergillus niger
- (B) Aspergillus clavatus
- (C) Mucor piriformis
- (D) All the given options

The key answer is option “D”. The petitioner opted for “A” which according to him is the correct answer. The opinion of the experts indicate that option “D” is the correct answer. The objection of the petitioner to this question was rejected by the TRB based on the opinion of the subject experts. The experts relied on a book titled “ A textbook of Microbiology” which says that aspergillus niger has



W.P.No.24888 of 2022

been the choice for the production of this primary metabolite citric acid for several decades. Thus, the material placed before this court substantiate the stand of the TRB. The petitioner has not demonstrated that the key answer set by the TRB is wrong. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option set by the TRB for this question cannot be said to be palpably wrong. Therefore, this challenge is rejected. Therefore, this challenge is rejected.

22. The fourth challenge is to Question No.70, which reads as under:-

The flow of energy in biogeochemical cycle is carried out by

- (A) Plants
- (B) Food Chain
- (C) Animals
- (D) Environment

The key answer is option “B”. The petitioner opted for “A”. The opinion of the experts indicate that option “B” is the correct answer. The objection of the petitioner to this question was rejected by the TRB based on the opinion of the subject experts. The experts relied on a book titled “Environmental Biology” (Principles of Ecology) by P.S.Verma and V.K.Agarwal. The book says “Insofar as element is necessary for the maintenance of life, its movement through biotic communities (organisms) can be viewed in the terms of food



W.P.No.24888 of 2022

chain. The flow of a chemical element through the food chain can be viewed as the organic phase of the biogeochemical cycle. Thus, the material placed before this court substantiate the stand of the TRB. The petitioner has not demonstrated that the key answer set by the TRB is wrong. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option set by the TRB for this question cannot be said to be palpably wrong. Therefore, this challenge is rejected. Therefore, this challenge is rejected.

23. The fifth challenge is to Question No.89, which reads as under:-

The union of Second Male Gamete with the Polar
unclei is known as _____

- (A) Double Fertilization
- (B) Fertilization
- (C) Triple fertilization
- (D) Parthenocarpy

The key answer is option “A”. According to the petitioner option “C” triple fertilization is the correct answer. The experts relying upon the book titled “The Embryology of Angiosperms” opined the option “A” to be wrong. According to the experts all options are wrong. Therefore, the petitioner herein has to be awarded mark for Question No.89. **The TRB will award mark for this**



W.P.No.24888 of 2022

question to the petitioner.

WEB COPY 24. The sixth challenge is to Question No.109, which reads as under:-

An exact age of the fossil is calculated by:

- (A) C¹⁴ method
- (B) Lead method
- (C) Uranium method
- (D) Platinum method

The key answer is option “A”. The petitioner option for “C”. The experts The opinion of the experts indicate that option “A” is the correct answer. The objection of the petitioner to this question was rejected by the TRB based on the opinion of the subject experts. The experts relied on a book titled “A Textbook of Botany” Vol-II, by S.N.Pandey. The books says “The potassium-argon method can be used for dating fossils many millions of years old but the Carbon 14 (C¹⁴) method is accurate only for fossils formed within 50,000 years. Thus, the material placed before this court substantiate the stand of the TRB. The petitioner has not demonstrated that the key answer set by the TRB is wrong. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option set by the TRB for this question cannot be said to be palpably wrong. Therefore, this challenge is rejected. Therefore, this challenge is rejected.



W.P.No.24888 of 2022

25. In view of the above discussion, the petitioner is entitled to mark for

Question No.89 and challenge in respect of the other questions is rejected.

In the result, The TRB will award mark to the petitioner for Question No.89 and revise the total mark secured by the petitioner. The right of the petitioner to be appointed as PG Assistant (Botany) 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 on the above terms. No costs.
Consequently, connected WMP is closed.

09..10..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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W.P.No.24888 of 2022

To

WEB C

- 1.The Principal Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006.
- 3.The Chairman,
Teachers Recruitment Board,
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W.P.No.24888 of 2022

N.SATHISH KUMAR.J.,

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Pre delivery Order
in
W.P.No.24888 of 2022

09..10..2023