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W.P.No.24959 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.24959 of 2022

and

W.M.P.Nos.23895 & 23896 of 2022

M.Rizwana

..... 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, E.V.K.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 Certiorarified Mandamus, calling for the records relating to the



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impugned order issued by the 3rd respondent Teacher Recruitment Board (TRB) in R.C. No.4089/ E3/ 2020 dated 08.08.2022 and to quash the same and consequently directing the Respondents to property evaluate the Question Nos. 18, 74, 98 & 32 based on the approved Textbook materials and award marks to the petitioner for Question Nos. 18, 74, 98 & 32 and select and appoint the petitioner (21PG1736260099) to the post of Computer Instructor Grade I under BCM Category in accordance with the merits in the selection 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 challenging the Key Answer in respect of Question Nos. 18, 74, 98 & 32 and for consequential relief.

2. The petitioner is an aspirant for the post of Post Graduate Assistant (Computer Instructor). She belongs to Backward Class Muslim (BCM) community. She 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



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issued by the 3rd respondent for direct recruitment to the post of Post Graduate

Assistants / Physical Education Directors Grade-I/Computer Instruction 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. Her register/roll number is 21PG1736260099. She had taken

the written examination on 20.02.2022 and secured 97 out of 150 marks. The

grievance of the petitioner is that the answers which she had given to Question

Question Nos. 18, 74, 98 & 32 are correct and if she had been given marks for

those questions, she would have reached the cut-off mark and thus, she would

have been called for certificate verification and selected for appointment.

3. Since the petitioner failed to secure the cut-off marks pertaining to BCM category, she was not selected. It is the stand of the petitioner that key answers set in respect of questions mentioned above are demonstrably and palpably wrong and that therefore, she 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



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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 the disputed questions.

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.



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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 an examination does not permit re-evaluation or



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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



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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



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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



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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 the other keeping in mind the principle laid down by the Supreme Court referred to herein above.

17. In this writ petition, key answers to Question Nos. 18, 74, 98 & 32 are challenged on the ground that key answers set by the TRB were wrong.

18. It was submitted by the the learned Additional Advocate General that on considering the objections received from the other candidates, answers to Question Nos.32, 74 & 98 were already considered and rejected by the experts. Insofar objection as to the Question No.18, according to the learned Additional Advocate General, objections in respect of Question No.18 were also placed before the expert committee and the committee after having scrutinised the objections opined that option “C” stylus to be correct. The final key was published accordingly and mark was also awarded based on the same.

19. This court is not an expert in the academic matter. The scope of the



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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.

20. Further, while considering the challenge to the question Nos.18, 32, 85 & 98 made in W.P.(MD) Nos.17629 and 17630 of 2022, a learned single judge of Madurai Bench of this Court, though found that there was considerable force in the stand taken by the writ petitioners, who anchored their cases on the answers set out in the standard and prescribed textbooks, has refused to go into the correctness of the key answers in view of the categorical pronouncements of the Supreme Court in Ran Vijay Singh and Rahul Sing's case cited supra. The relevant portion of the order dated 27.09.2022 passed by the learned Judge reads as under:-

“7. In view of the aforesaid categorical pronouncement of the Hon'ble Supreme Court, even



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though this court is swayed by the submission of the writ petitioners, I am unable to interfere in the matter. These writ petitions are therefore dismissed.”

21. 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.

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
kmk

To

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School Education Department,
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2.The Commissioner,
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N.SATHISH KUMAR.J.,

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Pre delivery Order
in
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