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W.P.No.25634 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.25634 of 2022

and

W.M.P.Nos.24626, 24627 & 24632 of 2022

1.D.Subha

2.A.Sebasthi Jayarani

..... Petitioners

-Versus-

1.Teachers Recruitment Board,
Rep. by its Chairman,
3rd and 4th Floor, Puratchi Thalaivar
Dr.MGR Centenary Building,
DPI Campus, College Road,
Chennai 600 006.

2.Government of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Secretariat, Chennai.

3.K.Udhayakanth

4.Jayalalaitha.R

5.A.Bharathi

6.Sangeetha.A

..... Respondents



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Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records from the file of the respondents 1 & 2 relating to the final key dated Nil published by the 1st respondent read with the provisional selection list of Director recruitment for the Post Graduate Assistant/ Physical Education Director Grade1-I / Computer Instructor Grade-I for the year 2020-21 - History published on 10.09.2022 pursuant to the Notification No. 01D/ 2022 dated 27.08.2022 and to quash the same in so far as the respondents failed to provide marks for the Question No. 12, 27, 69, 89, 102 & 108 to the 1st petitioner and Question No.69, 102 & 108 to the 2nd petitioner by duly considering their objections and the material proof produced by the petitioners and to consequently direct the respondents 1 & 2 to award marks for the aforesaid questions to the writ petitioners and declare them as selected and issue necessary appointment/posting orders placing them in the appropriate place which they would be entitled to if the marks for the aforementioned questions/answers are added with effect from the date the others selected through the abovementioned selection was given together with monetary, service and other benefits had the 1st respondent declared the petitioners as selected along with the candidates selected pursuant to the provisional selection list dated 10.09.2022.

*For Petitioner(s) : Mr.N.G.R.Prasad for
Mr.K.Srinivasa Murthy for
M/s.Row and Reddy*

*For Respondent (s) : Mr.R.Neelakandan,
Additional Advocate General
Assisted by Mr.C.Kathiravan,
Standing Counsel for R1
Mr.P.Baladhandayutham,
Spl. Government Pleader for R2*



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ORDER

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This writ petition has been filed challenging the final key published on 10.09.2022 for the subject History. The 1st petitioner has challenged Question Nos.12, 27, 69, 89, 102 & 108 while the 2nd petitioner challenges Question Nos.69, 102 & 108.

2. The petitioners are aspirants for the post of Post Graduate Assistant (History). The 1st petitioner belongs to Scheduled Caste (SC) community and the 2nd petitioner belongs to Backward Community (BC). Both are fully qualified to apply for the post and they 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 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. The Registration Numbers of the petitioners are TRB PG 683046 and TRB PG 317451 respectively. They had taken the written examination on 14.02.2022 and they had secured 94 and 97 respectively out of 144. The grievance of the petitioners is that though the answers given by them for certain questions were correct, they were not taken into consideration and if they had been given



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marks for those questions, they would have reached the cut-off mark and thus, they would have been considered for certificate verification and selected for appointment under quota for PSTM category.

3. Since the petitioners failed to secure the cut-off marks pertaining to their respective categories, they were not selected. It is the stand of the petitioners that key answers set in respect of Question certain questions referred to above 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 petitioners to raise the same objection before this court as second round.

5. The learned counsel appearing for the petitioners 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 petitioners are correct and the key answers are wrong and the petitioners are



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entitled to get marks for certain.

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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 petitioners cannot raise the same claim once again before this court. Further, according to him, the books relied on by the petitioners 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.

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



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answers set by the paper setters are correct, unless it is demonstrably wrong.

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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 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



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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 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



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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



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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 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.



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16. It is pertinent to note here that key answers to Question Nos.12, 27, 69, 102 & 108 were the subject matter of challenge in W.P.(MD) No.19024 of 2022 and batch cases wherein a single Judge of the Madurai Bench of this Court by common order dated 20.04.2023 had examined the correctness of the key answer. The learned judge while upholding the correctness of the key answers to Question No.69 and rejecting the objections of the petitioners, revised the key answers set by the TRB Question Nos.102 & 108 and awarded mark for the same and requested the TRB to revisit the Question Nos.12 & 27 about which reference would be made in this order at the appropriate place to the extent it may be used for deciding the issue in the present writ petitions.

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. In this writ petitions master Question Nos.12, 27, 69, 89, 102 & 108 are challenged by the 1st petitioner while master Question Nos. 69, 102 & 108 are challenged by the 2nd petitioner. Thus, there are six questions now under challenge in which Question Nos.69, 102 & 108 are challenged by both the petitioners.

19. The first Challenge is to Question No.12, which reads as under:-



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The best ruler of the Slave Dynasty _____

- (A) Nasirudin
- (B) Iltumish
- (C) Qutb ud din Aibak
- (D) Ghiyasud din Balban

As per key answer option “B” is correct. According to the 1st petitioner, option “D” is correct.

20. As far as this question is concerned, the learned judge of this court W.P.(MD) No.19024 of 2022 by order dated 20.04.2023 had directed the TRB to revisit the key answer set by them.

21. The expert body relied on the book title “History of Medieval India” Authored by V.D.Mahajan and revised by Mahesh Bhatnagar which states that Iltumish who is regard as the greatest of the slave kings ascended the throne in 1210 A.D. Thus, the material placed before this court substantiate the stand of the TRB. The 1st petitioner has not demonstrated that the key answer set by the TRB is wrong. The experts also opined that option “A” to be correct. As such, at this point of time, the question of revisiting does not arise and this court has no second opinion except to go by the experts opinion. Therefore, this challenge is rejected.



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22. The second challenge is to Question No.27 which reads as follows:-

Who among the following British officers lost their lives at Lucknow?

- (A) General John Nicholson
- (B) Brigadier General Neil
- (C) Major General Havelock
- (D) Sir Henry Lawrence

The key answer is option “D”. According to the 1st petitioner, options “B” & “C” are also correct. The objection raised by the candidates for this question was rejected by the TRB.

23. The learned judge of this court W.P.(MD) No.19024 of 2022 by order dated 20.04.2023 had directed the TRB to revisit the key answer set by them.

24. The expert body relied on the book title “Modern Indian History” authored by V.D.Mahajan. The extract from the material relied upon by the TRB and the expert body says that Sir Henry Lawrence was killed during the course of siege of the Residence. Thus, the material placed before this court substantiate the stand of the TRB. Further, this court is not an expert in the academic matter. The scope of the judicial review against the experts' opinion is



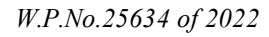
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extremely limited and unless it is shown that the mistake is a glaring mistake which is totally apparent, the view of the examining body cannot be interfered with. Taking into account the guiding principles on the power of judicial review, this court 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. Furthermore, the petitioner has also not demonstrated that the key answer is patently wrong on the face of it. After the order of the Madurai Bench of this court, much water has flowed under the bridge. The valuation was already completed and the list of provisionally selected candidates was also published. As such, at this point of time, the question of revisiting would not arise and this court has no second opinion except to go by the experts opinion. Therefore, the challenge to this question rejected.

25. The third challenge is to Question No.69 which reads as follows:-

The founder of Bhamini Kingdom was:

- (A) Abdul Muzaffer Alauddin
- (B) Hasan Sank
- (C) Ist Muhamadu



The key answer is option “A”. According to the 1st petitioner, option “B” is correct. The expert evidence produced by the TRB before this court is a text book titled “History of Medieval India” [Muslim Rule in India] authored by V.D.Mahajan and revised by Dr.Mahesh Bhatnagar. As already stated above, this question has already been dealt with by the Madurai Bench of this court in W.P.No.20168 of 2022. The 1st petitioner has also not demonstrated that the key answer is patently wrong on the face of it. 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. It is the settled law that in the event of doubt over correctness of answer key, benefit must be given to the examining body and not to the candidates. In view of the reasons assigned already in the preceding paragraph and in the light of the settled legal position on the subject, this court do not want to re-examine the opinion of the expert committee and the challenge made to the Question No.62 is also rejected. Therefore, this challenge is rejected.

26. The fourth challenge is to Question No.89 which reads as under:-

The first Ministerial meeting of SAARC was held in

(A) Thimpu in Bhutan

(B) Dhaka in Bangladesh



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(C) Mali in Maldiva

(D) New Delhi in India

The key answer is option “D”. According to the 1st petitioner option “B” is correct. The experts relied on the book titled “India's Foreign Policy” published by Surjeet Publications. The opinion of the expert body would show that first Ministerial meeting of SARC was held in New Delhi in 1983. Thus, the material placed before this court substantiate the stand of the TRB. The 1st petitioner has not demonstrated that the key answer set by the TRB is wrong. In view of the reasons assigned already in the preceding paragraph and in the light of the settled legal position on the subject, this court do not want to re-examine the opinion of the expert committee and the challenge made to the this question is also rejected. Therefore, this challenge is rejected.

27. The fifth challenge is to Question No.102 reads as follows:-

In 18 June 1815 Napoleon was defeated in the
battle of Waterloo by British Forces under the leadership
of _____”

(A) Wellington

(B) John Keats

(C) Fraun Hofer – (Correct Alternative)

(D) Herold



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The key answer is option “C”. According to the 1st petitioner option “A” is correct. The objection raised by the candidates for this question was rejected by the TRB. This court has already dealt with this question in W.P.No.20168 of 2022 wherein this court has held that the key answer set by the TRB is wrong and awarded mark to the petitioner therein. Therefore, the 1st petitioner herein has also to be awarded mark for Question No.102. The TRB will award mark for this question to the petitioner.

28. The next and last challenge is to Question No.108 which reads thus:-

108. Rome – Berlin – Tokyo Axis was signed in
which year?

- (A) October, 1934
- (B) October, 1935
- (C) October, 1936
- (D) October, 1937

As per the key answer, option “C” is correct. The 1st petitioner opted for “D”.

29. Insofar as this question is concerned, the learned Judge of Madurai Bench of this Court has held that option set by the TRB in the key answer is wrong and the agreement was signed only in October, 1937. According to him, Rome – Berlin – Axis was created in October, 1936, but the question is not about creation of of Rome – Berlin – Axis and it is about, Rome – Berlin –



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Tokyo Axis and the agreement was signed only in October, 1937. Therefore, the learned Judge has proceeded to hold that key answer is palpably wrong.

30. This court has perused the experts' opinion produced before this court and the book titled "A History of Europe" authored by Arun Bhattacharjee. The 1st petitioner has also not demonstrated that the key answer is patently wrong on the face of it. Therefore, this court is of the view that in the absence of any other contrary material to dispel the opinion of the expert, option "C" set by the TRB for Question No.108 cannot be said to be palpably wrong. Therefore, this challenge is rejected.

31. Coming to the challenge made by the petitioner to Question Nos.69, 102 & 108, as already discussed herein above, the challenge to the Question Nos.69 & 108 are rejected and insofar as challenge to Question No.102, the claim of the 2nd petitioner is sustained and she has to be awarded mark for Question No.102. The TRB will award mark for this question to the petitioner.

32. In view of the above discussions, the petitioners are entitled mark for Question No.102 and challenge in respect of the other questions is rejected.

In the result, The TRB will award mark to the petitioners for Question No.102 and revise the total mark secured by the petitioners. The right of the petitioners to be appointed as PG Assistant in History will abide by the said



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revision. It is made clear that since the selection process has already been over and the interest of the petitioners have 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 petitions are disposed of on the above terms. 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 Chairman, Teachers Recruitment Board, 3rd and 4th Floor, Puratchi Thalaivar Dr.MGR Centenary Building, DPI Campus, College Road, Chennai 600 006.
- 2.The Secretary, School Education Department, Government of Tamil Nadu, Secretariat, Chennai.



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Pre delivery Order
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