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W.P.No.26510 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.26510 of 2022

and

W.M.P.No.25576 of 2022

D.Swathy

..... Petitioner

-Versus-

The Member Secretary,
Teachers Recruitment Board,
EVK Sampath Maligai 4th Floor,
DPI Compound, College Road,
Chennai 600 006.

..... Respondent

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to give 3 marks for the correct answers given to the Question Nos.75, 123 and 140 of petitioner's response sheet and include petitioner's name in the final select list for the post of Post Graduate Assistant (English) in School Education and other Departments for the year 2020-2021 as per the Advertisement No.01/2021 dated 09.09.2021 and the Revised Notification No.01C/2022 dated 03.08.2022 by considering the petitioner's representation dated 27.09.2022.



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For Petitioner : Mr.N.Manokaran,

*For Respondent : Mr.R.Neelakandan,
Additional Advocate General
Assisted by Mr.C.Kathiravan,
Standing Counsel*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the respondent to give 3 marks for the correct answers given to the Question Nos.75, 123 and 140 of petitioner's response sheet and include petitioner's name in the final select list for the post of Post Graduate Assistant (English) in School Education and other Departments for the year 2020-2021 as per the Advertisement No.01/2021 dated 09.09.2021 and the Revised Notification No.01C/2022 dated 03.08.2022 by considering the petitioner's representation dated 27.09.2022.

2. The petitioner is an aspirant for the post of Post Graduate Assistant (English). She belongs to Most Backward Class (MBC) 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 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



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no dispute in it. There is also no dispute regarding the Scheme of Examination.

Her roll number is 21PG0222198067. & Enrolment Number is TRBPG555525.

She had taken the written examination on 18.02.2022 and secured 97.773003 marks. The grievance of the petitioner is that the answers which she had given to Question Nos.52, 70 & 71 are correct and if she had been given marks for those questions, she 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, she was not selected. It is the stand of the petitioner that key answers set in respect of Question Nos.52, 70 & 71 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 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.



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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.102 & 108.

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.

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.



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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 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



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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 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



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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



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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 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



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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 Master Key Answers set to Question Nos.52, 70 & 71 by the TRB are now under challenge.

17. It is pertinent to note the petitioner did not even submit her objection through online objection tracker at the appropriate time. She has approached this court only on 28.09.2022 belatedly though final key and the results were published as early as on 04.07.2022. By the time when the petitioner has approached this court, selection for appointment to the post was also completed. Further, these questions were admittedly deleted from the valuation based on the opinion of the experts and no mark was awarded for that question to any of the candidates. Further, this court by order dated 02.11.2022 made in W.P.(MD) No.22129 of 2022 rejected the challenge made by one K.Vinopratha. Therefore, the challenge to the disputed questions does not merit consideration. Accordingly, challenge to Question Nos.52, 67 & 71 is rejected.

In the result, the writ petition is dismissed. No costs. Consequently, connected WMP is closed.

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Index : yes / no
Neutral Citation : yes / no
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To

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N.SATHISH KUMAR.J.,

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Pre delivery Order
in
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