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W.P.Nos.29973, 31681 & 32820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.29973, 31681 & 32820 of 2023

and

W.M.P.Nos.29588, 31309 & 32443 of 2023

W.P.No.29973 of 2023

M.Arunkumar

...Petitioner

Vs

1.Tamil Nadu Uniformed Services

Recruitment Board,

Rep. by its Member Secretary,

Old Commissioner of Police Office Campus,

Pantheon Road, Egmore,

Chennai – 600 006.

2.The Chairman,

Tamil Nadu Uniformed Services

Recruitment Board,

Old Commissioner of Police Office Campus,

Pantheon Road, Egmore,

Chennai – 600 006.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to



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award full mark to the petitioner bearing Enrollment No.1106523 in respect of question numbers 42, 50 and 73 in B category booklet bearing serial number 20008446 and consequently admit the petitioner to the next level of selection as per the notification of the 1st respondent in Notification No.1 of 2023 dated 05.05.2023.

For Petitioner : Mr.Suresh Kumar
for M/s.K.M.Vijayan Associates

For Respondents : Mr.P.Kumaresan, AAG
assisted by Ms.Sowmi Dattan

W.P.No.31681 of 2023

C.Sivasakthi

...Petitioner

Vs

The Chairman/Secretaries,
Tamil Nadu Uniformed Services
Recruitment Board,
Egmore, Chennai – 600 006.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 02.10.2023 and to award full mark to the petitioner with reference to in respect of the question No.25 and question No.113 of “C” series question paper and to conduct Certificate Verification, Physical Efficiency Test and Viva Voice on 07.11.2023 and select, publish and appoint the petitioner to the post of



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Inspector of Police – 2023 [Taluk, Armed Reserve & Tamil Nadu Special Police (Men, Women & Transgender)] for the year 2023.

For Petitioner : Mr.G.Ilamurugu

For Respondent : Mr.P.Kumaresan, AAG
assisted by Ms.Sowmi Dattan

W.P.No.32820 of 2023

N.Logeshwar

...Petitioner

Vs

1.The Secretary to Government,
Home Department,
Secretariat, Chennai – 600 009.

2.The Director General of Police,
Government of Tamil Nadu,
Mylapore, Chennai – 600 004.

3.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 006.

4.The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
E.V.K. Sampath Road, Vepery,
Chennai – 600 007.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3rd respondent to consider the representation of the petitioner dated 12.10.2023 and to pass appropriate orders on merits by verifying the relevant key answers as claimed by the petitioner and to subject him for Physical Endurance Test.

For Petitioner : Mr.G.Ilamurugu

For R1, R2 & R4 : Mr.V.P.R.Elamparithi,
Additional Government Pleader

For R3 : Mr.P.Kumaresan, AAG
assisted by Ms.Sowmi Dattan

COMMON ORDER

With the consent of both the parties, all these Writ Petitions are taken up for final disposal.

2. In all these Writ Petitions, the grounds raised by the petitioners are predominantly to the effect that some of the key answers published by the Tamil Nadu Uniformed Services Recruitment Board, pursuant to the written examination conducted for recruitment to the post of Sub-Inspectors of Police through notification dated 05.05.2023, are



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demonstrably wrong, when compared to the academic materials touching upon the relevant subjects.

3. The learned Additional Advocate General, on the other hand, submitted that after publication of the key answers, 81 representations were received from the candidates disputing the preliminary answer keys and therefore, a 3 member Expert Committee was constituted and the disputed answer keys were re-evaluated by the Expert Committee. On re-evaluation, it was found that the answers given by the candidates did not match with the choice of the correct answers as determined by the Expert Committee and therefore, they are not entitled for any marks.

4. The core issue involved in these Writ Petitions is as to whether this Court, exercising its power under Article 226 of the Constitution of India, would be justified in analyzing the academic materials placed before this Court for the purpose of re-evaluating the final key answers?

5. Such an exercise by this Court is neither feasible nor permissible, in view of the various decisions rendered by the Hon'ble



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Supreme Court, as well as the High Courts. In the case of ***Uttar Pradesh Public Service Commission Vs. Rahul Singh and another*** reported in ***2018 (7) SCC 254***, this issue was predominantly dealt with in the following manner:

“9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

10. In Kanpur University, through Vice Chancellor and Others vs. Samir Gupta and Others [(1983) 4 SCC 309], this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong. Following observations of the Court are pertinent:-

“16.....We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be



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held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct.....”

The Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others [(2018) 2 SCC 357],
this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms:-

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

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



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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.”

We may also refer to the following observations in Paras 31 and 32 which show why the Constitutional Courts must exercise restraint in such matters:-

“31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse — exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is



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interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”



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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 (supra), 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.

13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects



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for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. In the present case we find that all the 3 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 text books. 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.

15. In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant -



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Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct.”

6. The aforesaid extracts are self-explanatory. The ratio that when the Experts have evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion of the Experts and array at its own conclusion, has been adopted consistently in various other decisions also, including this Court. When such powers have divested under a line of decisions rendered by the Hon'ble Supreme Court, including ***Rahul Singh's case*** (supra), this Court is unable to appreciate the grounds raised by the petitioners herein for the purpose of re-evaluating the questions to which the Experts in the concerned subjects have already rendered their opinion.

7. Above all, this Court, not being an expert in the subjects, would not venture into the exercise of elucidating the correct answers from the



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subject materials supplied by the petitioners herein. Furthermore, this Court finds no other reason as to why these disputed questions require re-evaluation by another Expert Committee, when there are no sufficient materials questioning the competence of the earlier Expert Committee.

8. In the result, I do not intend to interfere with the recruitment process, when the Expert Committee had already rendered their opinion and the disputed key answers have also been re-evaluated and determined, which is not in conformity with the choice of answers attempted by the petitioners in the written examination.

9. Hence, there are no merits in the present Writ Petitions. Accordingly, all the Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2023

Index:Yes
Neutral Citation:Yes
Speaking order
hvk



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Home Department,
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- 3.The Commissioner of Police,
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- 5.The Member Secretary,
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M.S.RAMESH,J.

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