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W.P. No.33166 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.33166 of 2023 & W.M.P. No.32859 of 2023

R. Paramasivam

Petitioner

v

1 The Registrar General
Madras High Court
Chennai 600 104

2 The Registrar (Recruitment)
Madras High Court
Chennai 600 104

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent authorities to grant 2 marks (full mark) to the petitioner having Regn. No.120232161 in the preliminary examination conducted for the recruitment of District Judges (Entry Level) by the respondent authority for Question No.15 and Question No.67 in Booklet No.6294, Series B of Paper – II, considering the answer given by the petitioner regarding the limitation for disposal of a case under the Protection of Women from Domestic Violence Act as (B) – Receipt of application under Section 12 and answer given by the petitioner for Question No.67 as “C” – 35 kmph, and declare the petitioner as pass



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in the preliminary examination and consequently, permit the petitioner to take part in the further recruitment process for District Judges and the main examinations proposed to be held on 02.12.2023 and 03.12.2023.

For petitioner Mr. S. Thanka Sivan
For respondent Mr. B. Vijay
 Standing Counsel

ORDER

(made by S. VAIDYANATHAN, J.)

The petitioner is a District Judge aspirant, who took up the preliminary examination conducted therefor by the respondents on 30.09.2023. The gist of the petitioner's grievance is that the key answers given by the respondents for Question Nos.15 and 67 of Paper II, Series B as Option (C) and Option (A), respectively, are wrong and that the answers given by him as (B) and (C), respectively, are the correct ones; since he has been deprived of 2 marks, *i.e.*, 1 mark for each question, owing to the wrong key answers published by the respondents, he could secure only 34.5 as against the required minimum pass mark of 35 and hence, the present writ petition to declare him as having passed in the preliminary examination and to consequently, permit him to partake in the main examinations to be held on 02.12.2023 and 03.12.2023.

2 For the sake of better appreciation of the petitioner's case, it is worth

extracting Q. Nos.15 and 67 of Paper II together with options:



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15. The limitation for disposal of a case under the Protection of Women from Domestic Violence Act starts from the date of :

- (A) Domestic violence
- (B) Receipt of application under Section 12
- (C) Commencement of trial
- (D) None of the above

67 A person covers a certain distance by car at a speed of 30 Kmph and comes back at a speed of 40 kmph. The average speed during the travel is:

- (A) 34.3 Kmph
- (B) 37.5 Kmph
- (C) 35 Kmph
- (D) 32.8 Kmph

3 The learned counsel for the petitioner, referring to Section 12(5) of the Protection of Women from Domestic Violence Act, 2005 (for short “the DV Act”) submitted that Option (B) is the correct answer for Question No.12. As regards Question No.67, his submission is that Option (C) is the correct answer, inasmuch as the very same question, with very same options, was given in the recruitment taken place in 2020, for which, the key answer given by the respondents was Option (C), viz., 35 Kmph and that being the case, when the same question, with same options, has been given this year, the correct answer cannot be subjected to change.

4 *Per contra*, the learned Standing Counsel for the respondents submitted that for Question No.15, Option (C) is the correct answer as the



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not from the date of filing of the application. According to him, a cursory glance at Section 13 of the DV Act would make it clear that notice will have to be served on the other side, a date will have to be fixed for the parties to appear and only thereafter, the trial commences and in view of the same, Option (C) is the correct answer.

5 As regards Question No.67, the learned Standing Counsel submitted that the correct answer is only Option (A), *i.e.*, 34.3 Kmph and not Option (C) *i.e.*, 35 Kmph, as contended by the petitioner. The learned Standing Counsel, however, fairly admitted that in the recruitment conducted in 2020, when the very same question with very same options was asked, the key answer given by the respondents was only Option (C), *i.e.*, 35 Kmph and even on this occasion, initially, Option (C) was published as the key answer; however, realising that Option (C) is a wrong key answer predicated on a wrong calculation, this year, the respondents have changed the key answer as Option (A) as per the formula and working scanned below:

* Q.No.67

* Question

Q. A car starts from rest and moves with a constant acceleration of 2 m/s^2 for 10 s . What is the average speed of the car during this time?

A. 34.3 kmph
B. 35 kmph
C. 36 kmph
D. 37.8 kmph

Solution

Average Speed = $\frac{\text{Total Distance}}{\text{Total Time}}$

$\Rightarrow \frac{1}{2} \times 2 \times 10 = 10 \text{ m}$

$\Rightarrow \frac{10}{10} = 1 \text{ m/s}$

$\Rightarrow 1 \times \frac{18}{5} = 3.6 \text{ kmph}$



$\text{SPEED} = \frac{\text{Distance}}{\text{Time}}$

Proof: Let the distance be A km.
 $\rightarrow$ Time taken to travel the distance of x Km/hr = $\frac{A}{x}$ hrs.
 $\rightarrow$ Time taken to travel the distance of y Km/hr = $\frac{A}{y}$ hrs.
 Thus, we see that the total distance of $2A$ km is travelled in - $(\frac{A}{x} + \frac{A}{y})$ hrs.
 $\therefore$ Average Speed = $\frac{2A}{\frac{A}{x} + \frac{A}{y}} = \frac{2Ax y}{A(x+y)}$
 $\Rightarrow \frac{2xy}{x+y}$ Km/hr.

6 Heard both sides.

7 The facts are not in dispute. As regards Question No.15, we are not inclined to accept the argument of the learned counsel for the petitioner in view of the fact that in terms of Section 13 of the DV Act, notice will have to be served on the parties concerned and a date will have to be fixed for the parties to appear and only thereafter, the trial commences. Hence, the limitation for disposal of a case under the Protection of Women from Domestic Violence Act, commences only from the date of commencement of trial in terms of Section 12(4) and (5) of the DV Act. Further, we make it clear that only after the commencement of trial, the limitation period for disposal of a case starts.

8 Insofar as Question No.67, as stated earlier, the stand taken by the learned counsel for the petitioner is that in the 2020 recruitment, when marks were awarded for those who chose Option (C) i.e., 35 Kmph as the answer, changing



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the key answer this year for the very same question, that too, at the eleventh hour, without giving the petitioner an opportunity to submit his objections for the said key answer, cannot be accepted. This mistake pointed out by the learned counsel for the petitioner is fairly accepted by the learned Standing Counsel for the respondents. But, be it noted, just because the respondents had provided a wrong key answer in the earlier recruitment, it is not necessary that the same wrong answer will have to be provided as the correct key answer in the subsequent recruitments too. Is, to err not human? Having erred on the last occasion and even this year initially, realising that Option (C) is a wrong key answer owing to a wrong calculation, the respondents have thought it fit to give the correct key answer as Option (A). In our considered view, two wrongs will not make a thing right and a wrong committed in a recruitment process one year, need not be perpetuated. If at all, this argument of the learned counsel for the petitioner is to be accepted, will not those candidates who had correctly given their answer as Option (A), be prejudiced?

In view of the above discussion, this writ petition fails as being devoid of merits and as a sequel, is dismissed. Costs made easy. Connected W.M.P. stands closed.

(S.V.N., J.) (K.R.S., J.)
24.11.2023



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To

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Chennai 600 104
- 2 The Registrar (Recruitment)
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