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W.P.No.33127/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 21-12-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.33127 of 2023

E.Suganthan

...

Petitioner

-VS-

1.The Registrar General,
O/o.The Registrar General,
Madras High Court,
Chennai – 600 104.

2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar, Park Town,
Chennai – 600 003.

3.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar, Park Town,
Chennai – 600 003.

...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of declaration, declaring the Main Written Examination (Descriptive Type) conducted for the Direct Recruitment to the post of Civil Judge in the TN State Judicial Service in pursuance to the Notification No.12/2023, dated 01.06.2023, issued by the



second respondent, as irregular and not in accordance with law and consequently to direct the second respondent to conduct re-exam to the Main Written Examination (Descriptive Type) for the Direct Recruitment to the Post of Civil Judge in the TN State Judicial Service in pursuance to the Notification No.12/2023, dated 01.06.2023, in consultation and direct supervision of the first respondent.

For Petitioner : Mr.Kaushik N.Sharma
for E.Suganthan (Party in Person).
For Respondent 1 : Mr.B.Vijay
For Respondents 2 & 3 : Mr.R.Karthikeyan

ORDER

(By *S.Vaidyanathan,J.*)

This Writ Petition has been filed by the petitioner seeking a declaration that the Main Written Examination (Descriptive Type) conducted for the Direct Recruitment to the post of Civil Judge in the TN State Judicial Service in pursuance to the Notification No.12/2023, dated 01.06.2023, issued by the second respondent as irregular and not in accordance with law and consequently to direct the second respondent to conduct re-exam for the same in consultation and direct supervision of the first respondent.

2. The sum and substance of the matter is that Law Paper -II, which was scheduled to be conducted in the afternoon on 05.11.2023 was conducted in the forenoon and Law Paper – III, which was scheduled to be conducted in the forenoon, was conducted in the afternoon. The respondent - Registrar General of this Court has filed a counter, stating, more particularly in Para 7, that Law Paper – II, circulated to the



candidates in the forenoon on 05.11.2023, pertained to framing of charges and writing of judgments in criminal cases instead of framing of issues and writing of judgments in civil cases. There was also an inadvertent error in scheduling Law Paper – II in the forenoon. As many as 2475 candidates have appeared and written the examination and the petitioner alone has come forward with the present Writ Petition. According to the petitioner, one person alone is sufficient to bring it to the notice of the Court for the error committed and that the entire examination should be conducted again, if not, at least to the petitioner. He would further submit, that, as per the Notification, Law Paper-II for framing of issues and writing of judgments in Civil cases was on 05.11.2023 in forenoon session, whereas Law Paper-III for framing of charges and writing of judgments in criminal cases was in afternoon session on the same day. The question paper pertaining to criminal cases was given in forenoon and the question paper pertaining to civil cases was given in afternoon. According to the petitioner, the instructions given were very clear, and, that, in view of the error committed on the part of the respondents, the entire examination scheduled on the aforesaid date was bad and there should be re-examination. He would further submit that in view of the erroneous factor admitted by the first respondent in the counter stating, more-so in Para 7, there shall be a declaration that the Written Examination (Descriptive Type) conducted for the Direct Recruitment to the post of Civil Judge in the TN State Judicial Service in pursuance to the Notification No.12/2023, dated 01.06.2023, issued by the second respondent as irregular and that re-



examination be conducted for the same.

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3. Respondents 2 and 3 have also filed their counter. The alpha and omega of the counter affidavit of second and third respondents is that as many as 2478 candidates have appeared for the examination in the forenoon session and 2475 candidates in the afternoon session for the Main Examination on 05.11.2023 and none of them have raised any issue except the petitioner. It is also stated in the counter, that, on realising the error, grace time was given to the candidates, giving instructions, and, without any murmur, all the candidates, including the petitioner, have written the examination.

4. Papers - II and III, referred to by the petitioner, pertain to framing of questions and answers and, whether it be civil or criminal is not going to prejudice anyone and also no prejudice has been shown to the petitioner. The contention that the petitioner has got one hour's time between forenoon and afternoon sessions cannot be accepted, especially, when he is going to take up the examination to enter into Judiciary. Further, if the contention of the petitioner is accepted, then, other persons, who have written the examination and may be successful, can approach this Court, stating that the results have to be declared based on the examination conducted and that there is no need for another examination.



5. Paragraph 7 of the counter of first respondent, which the petitioner has referred to, reads as under :

7. It is submitted that the preliminary examination for the post of Civil Judge was conducted on 19.08.2023 and 10915 number of candidates have attended the preliminary examination. The result of preliminary examination was hosted on 11.10.2023 and 2531 number of candidates were permitted to write the Main Examination. The main written examination (Descriptive type) for four papers were conducted on 04.11.2023 and 05.11.2023 respectively. It is true that the Law Paper II circulated to the candidates on

the forenoon on 05.11.2023 pertained to framing of charges and writing of judgments in criminal cases instead of framing of issues and writing of judgments in civil cases. The Selection Authority, after circulation of question paper, found that there was an inadvertent error in scheduling the Law Paper II in the forenoon. The respondents apprised all the candidates about such inadvertent error and provided grace time of 5-10 minutes to all the candidates to acquaint themselves with the change. The respondents have taken all possible and best efforts to avoid any sort of prejudice to the candidates on account of inadvertent change in the topic of the question paper. All the 2475 candidates, including the petitioner who had appeared for the written examination wrote the Law Paper II (framing charges and writing of judgment in criminal cases) in the morning session without any demur or protest. Similarly, for Law Paper III the candidates were apprised on the change and the written examination was conducted without any difficulty. It is significant to state that, as on date, none of the other 2474 candidates have raised any complaint about the switch made in the scheduling of Law Paper II and III. The petitioner also, without any protest, wrote the Law Paper II and Law Paper III and has thereafter chosen to file this Writ Petition on 20.11.2023 in absence of any real prejudice.



6. It is true, the Main Examination of Descriptive Type was scheduled on 04.11.2023 and 05.11.2023 as per the tabular column given in the counter of first respondent, which is extracted below :

5. Pursuant to the Recruitment Notification, the Preliminary Examination (OMR Method) was conducted on 19.08.2023 and the results were hosted on 11.10.2023. Initially, the Main Examination was tentatively scheduled to be conducted on 28.10.2023 and 29.10.2023. Thereafter, the Main examination was rescheduled and conducted on 04.11.2023 (FN & AN) and 05.11.2023 (FN & AN) and the details of the exam schedule are submitted below:

MAIN EXAMINATION (DESCRIPTIVE TYPE)		
Sl. No.	Name of the Paper	Date of Examination and Time
1.	Translation Paper	04.11.2023 (FN) (09:00 AM to 12:00 Noon)
2.	Law Paper – I	04.11.2023 (AN) (02:00 PM to 05:00 PM)
3.	Law Paper – II	05.11.2023 (FN) (09:00 AM to 12:00 Noon)
4.	Law Paper – III	05.11.2023 (AN) (02:00 PM to 05:00 PM)

7. It is also true that an inadvertent error was accepted by the first respondent in Paragraph 7, extracted hereinabove. In the said Paragraph, it has been categorically mentioned by the first respondent that the petitioner has written Law Papers – II and III without any protest and, thereafter, has filed this Writ Petition. In the absence of any real prejudice, the entire examination held cannot be brushed aside, as Law Papers – II and III were to assess the candidates with regard to framing of questions and skill of writing judgments and a choice was also given to the candidates to



frame questions and answer the same.

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8. Though the petitioner has relied upon a decision of this Court in *J.Antony Clara v. The State of Tamil Nadu*, 2013 SCC OnLine Mad 3023, in our standpoint, it is not applicable to the facts of this case, as the questions framed therein were found to be incorrect. In that case, 40 out of 50 questions were erroneous. In this case, as stated supra, it was about the skill of writing judgments, both civil and criminal, of the candidates, who are going to enter Judicial Service. Though we accept the contention that question paper has been changed as has been stated by the petitioner and the first respondent, since no prejudice has been caused to the petitioner, we are not inclined to grant the relief, as sought for by the petitioner. There are about 245 vacancies and the total candidates are 2475. Taking note of the large number of vacancies and the pendency of the cases coupled with the fact that no prejudice has been caused to the petitioner, in our considered opinion, this Writ Petition is devoid of merit. Therefore, it is dismissed. No costs. Consequently, the connected W.M.P.No.32819 of 2023 stands closed.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
21-12-2023



To
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- 1.The Registrar General,
O/o.The Registrar General,
Madras High Court,
Chennai – 600 104.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar, Park Town,
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