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W.P.(MD).No.28115/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 06-12-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD) No.28115 of 2023

D.Ganeshamoorthi

...

Petitioner

-VS-

1.The Registrar (Recruitment),
High Court of Judicature,
Chennai -1.

2.The Secretary to Government,
Public (Special-A) Department,
Secretariat,
Chennai.

...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus to call for the records relating to impugned proceeding, dated 09.11.2023, on the file of the first respondent and quash the same as illegal and arbitrary and consequently direct the respondents to re-evaluate the petitioner preliminary Exam Paper-II in District Judge (Entry Level) in the Tamilnadu State Judicial Service which was conducted on 30.09.2023 and to issue fresh mark statement to the petitioner within the time limit that may be stipulated by this Court.



For Petitioner : Mr.A.E.Chelliah,
Senior Counsel,
for Mr.Krishnamoorthi.AD.
For Respondent 1 : Mr.D.Sivaraman

ORDER

(By *S.Vaidyanathan,J.*)

Petitioner has come forward with this Writ Petition praying for issuance of a writ of certiorarified mandamus to call for the records relating to impugned proceeding, dated 09.11.2023, on the file of first respondent, quash the same as illegal and arbitrary, and, consequently, direct the respondents to re-evaluate the petitioner's Preliminary Exam Paper-II in District Judge (Entry Level) in the Tamilnadu State Judicial Service, which was conducted on 30.09.2023, and to issue fresh mark statement.

2. According to the petitioner, he has cleared Paper-I and, in Paper-II, he is short of 0.25 mark, which resulted in not enabling him to attend the subsequent examination, which is scheduled on 09th and 10th of December,2023. It is submitted that 2 marks have been awarded to all the candidates for Question Nos.77 and 87 in A-Series and the corresponding numbers in other papers, more-so Question Nos.43 and 73 in C-Series; he is concerned only with Paper-II and that he has attended 85 questions, of which he answered 42 questions correctly and 43 questions incorrectly; for the incorrect answer, 0.25 mark has been deducted as negative mark as per the instructions and, even



after the negative mark, he has secured 31.25 marks; paper has been wrongly evaluated and mark awarded as 29.75, which is not a qualifying mark for the main examination and that he has been unnecessarily prevented from taking up the main examination scheduled on the aforesaid dates. He would further submit that the action of the respondents in not evaluating the paper correctly and granting marks is illegal, arbitrary and, hence, Paper-II has to be re-valuated and he be given fresh marks and, thereafter, further examination conducted.

3. Mr.D.Sivaraman, learned counsel appearing for first respondent through video conferencing, would submit by filing a statement before this Court that for 2 questions (one unattended and one wrongly answered), marks have been awarded to the petitioner; petitioner has answered 85 questions and not answered 15 questions, and, as he has answered 39 questions correctly, he is awarded 39 marks; with regard to wrongly answered questions, numbering 45+1, 1 mark has been given to Question No.43 in Paper-C, so also, 1 mark has been awarded to Question No.73, as the said mark has been awarded to all the candidates and that the total mark awarded to the petitioner is 39+1+1, equivalent to 41. According to the learned counsel, since there are 45 incorrect answers, 0.25 mark has been deducted for each wrong answer, which is equivalent to 11.25 marks, and the total mark arrived at is 41 minus 11.25, which is equivalent to 29.75.



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4. In response, the petitioner would contend that though he has answered some questions correctly, no mark has been awarded.

5. A detailed statement, vide a Chart, has been filed by the respondent, which is scanned below :

WP (MD) No. 28115 of 2023

CHART SHOWING THE EVALUATION OF THE PETITIONER'S ANSWER SHEET

C series Question No.	Corresponding A series Question No.	Correct Answer	Answer given by the petitioner	Right/ Wrong	Marks Awarded
1	9	D	A	Wrong	-.25
2	10	B	Unanswered	-	-
3	11	C	C	Right	1
4	19	A	B	Wrong	-.25
5	20	D	A	Wrong	-.25
6	21	A	A	Right	1
7	29	C	C	Right	1
8	36	D	Unanswered	-	-
9	37	A	D	Wrong	-.25
10	46	B	B	Right	1
11	47	B	B	Right	1
12	56	B	A	Wrong	-.25
13	57	B	B	Right	1
14	65	A	A	Right	1
15	66	C	C	Right	1
16	67	C	A	Wrong	-.25
17	74	A	A	Right	1
18	75	C	A	Wrong	-.25
19	82	D	Unanswered	-	-
20	83	B	A	Wrong	-.25
21	92	B	D	Wrong	-.25
22	93	D	B	Wrong	-.25
23	94	C	C	Right	1
24	95	C	C	Right	1



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25	1	C	C	Right	1
26	2	D	D	Right	1
27	3	D	B	Wrong	-.25
28	12	B	A	Wrong	-.25
29	13	A	Unanswered	-	-
30	22	C	C	Right	1
31	23	D	A	Wrong	-.25
32	30	A	D	Wrong	-.25
33	31	B	D	Wrong	-.25
34	38	A	A	Right	1
35	39	B	B	Right	1
36	48	B	B	Right	1
37	49	B	B	Right	1
38	58	B	D	Wrong	-.25
39	59	B	B	Right	1
40	68	D	A	Wrong	-.25
41	69	B	Unanswered	-	-
42	76	B	C	Wrong	-.25
43	77	C	C	Right	1
44	84	B	C	Wrong	-.25
45	85	C	B	Wrong	-.25
46	96	C	D	Wrong	-.25
47	97	B	D	Wrong	-.25
48	98	B	B	Right	1
49	4	C	D	Wrong	-.25
50	5	A	C	Wrong	-.25
51	6	B	A	Wrong	-.25
52	14	D	B	Wrong	-.25
53	15	C (As per final key answer)	B	Wrong	-.25
54	16	D	D	Right	1



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55	24	B	B	Right	1
56	25	B	D	Wrong	-.25
57	26	C	B	Wrong	-.25
58	32	C	D	Wrong	-.25
59	33	B	Unanswered	-	-
60	40	D	A	Wrong	-.25
61	41	A	Unanswered	-	-
62	42	C	A	Wrong	-.25
63	50	B	C	Wrong	-.25
64	51	B	Unanswered	-	-
65	52	B	B	Right	1
66	60	C	C	Right	1
67	61	A	A	Right	1
68	70	D	D	Right	1
69	71	B	B	Right	1
70	78	C	A	Wrong	-.25
71	79	C	C	Right	1
72	86	A	Unanswered	-	-
73	87	D	Unanswered(A s per final key answer)	Right	1
74	99	C	C	Right	1
75	100	B	B	Right	1
76	7	C	C	Right	1
77	8	A	Unanswered	-	-
78	17	C	C	Right	1
79	18	C	D	Wrong	-.25
80	27	B	B	Right	1
81	28	B	A	Wrong	-.25
82	34	A (As per final key answer)	C	Wrong	-.25
83	35	B	Unanswered	-	-



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84	43	C	A	Wrong	-.25
85	44	A	A	Right	1
86	45	D	Unanswered	-	-
87	53	B	B	Right	1
88	54	C	B	Wrong	-.25
89	55	C	Unanswered	-	-
90	62	D	C	Wrong	-.25
91	63	C	A	Wrong	-.25
92	64	A	Unanswered	-	-
93	72	B	A	Wrong	-.25
94	73	D	D	Right	1
95	80	B	A	Wrong	-.25
96	81	A	C	Wrong	-.25
97	88	A	A	Right	1
98	89	D	C	Wrong	-.25
99	90	B	B	Right	1
100	91	D	D	Right	1

Number of Questions Answer Correctly 39

Marks awarded = $39 \times 1.00 = 39.00$ marks

Number of Unanswered Questions – 15 (But one mark has been awarded to 1 unanswered question No.73– Since 1 mark has been awarded to the said Question to all the candidates)

Number of Questions Answered Wrongly – 46 (But one mark has been awarded to 1 wrong answer to question No.43 – Since 1 mark has been awarded to the said Question to all the candidates)

Total marks awarded = $39 + 1 - 1 = 41$ Negative marks Awarded = $45 \times (-0.25) = -11.25$ marks (0.25 marks have be deducted for each wrong answer)Final mark scored by the petitioner = $41 - 11.25 = 29.75$ marks.Dated at Madurai this the 4th day of December, 2023.

COUNSEL FOR THE RESPONDENTS



WP (MD) No. 28115 of 2023

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Number of Questions Answered Correctly — 39
Marks awarded (39 x 1.00) = 39.00 marks(A)
Number of Unanswered Questions — 15
(But one mark has been awarded to unanswered question No.73 Since 1 mark has been awarded to the said Question to all the candidates)(B)
Number of Questions Answered Wrongly — 46
(But one mark has been awarded to wrong answer to question No.43 Since 1 mark has been awarded to the said Question to all the candidates)(C)
Total marks for correct Answers(A+ B + C) = 39+1+1= 41
Negative marks Awarded (45 X -0.25) = -11.25 marks
(0.25 marks to be deducted for each wrong answer)
Final marks scored by the petitioner (41-11.25)= 29.75 marks.

6. From the above statement, it is very clear that marks have been rightly awarded to the petitioner, but, it is very unfortunate that he has not come out successful. The petitioner wanted to insist upon, that, for Question No.82, 35 Kmph is the correct answer, which we have dealt with in the decision in W.P.No.33166 of 2023 on 24.11.2023 and the relevant portions of the said order are as follows :

"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:

15. xxxxxx

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*



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:

Options:

- A. 34.3 kmph
- B. 35 kmph
- C. 37 kmph
- D. 38 kmph

Solution:

$$\text{Average Speed} = \frac{240}{\frac{1}{30} + \frac{1}{40}}$$
$$= \frac{240}{\frac{7}{120}} = \frac{240 \times 120}{7} = \frac{28800}{7} = 4114.28 \text{ kmph}$$

34.3 kmph



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

Expt: 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 = $\frac{2A}{\frac{A}{x} + \frac{A}{y}} = \frac{2xy}{x+y}$
 $\Rightarrow \frac{2xy}{x+y}$ km/hr

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 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 ?"

Therefore, the case of the petitioner therein was rejected, which is applicable to the facts of the case of the petitioner herein, and though the petitioner submitted that for Question No.53, Section 311 Cr.P.C. is the correct answer and drew the attention of this Court to Sections 217 and 311 Cr.P.C., we make it clear that the question is very simple and direct about the power of the Criminal Court to recall and re-examine the witnesses and the correct answer would be 'C', as both Sections, namely, 217 and 311 Cr.P.C. enable the Criminal Court to recall and re-examine the witnesses. Hence, we are of the view that the relief sought for by the petitioner cannot be countenanced.

7. Writ Petition is, accordingly, dismissed. No costs. Consequently, the connected W.M.P.(MD).Nos.24209, 24210 and 24212 of 2023 are also dismissed.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
06-12-2023

Note to Office :
Upload / Issue Order Copy by 07.12.2023.



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W.P.(MD).No.28113/2023

To

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- 1.The Registrar (Recruitment),
High Court of Judicature,
Chennai -1.
- 2.The Secretary to Government,
Public (Special-A) Department,
Secretariat,
Chennai.



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S.VAIDYANATHAN,J.
AND
K.RAJASEKAR,J.

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