



W.P.(MD)No.1056 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1056 of 2020

and

W.M.P.(MD)Nos.842 and 844 of 2020

T.Gunasekaran

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Secretariat,
Chennai.

2. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road,
Chennai – 600 006.

3. The Member Secretary,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road,
Chennai – 600 006.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the final key answer issued by the second respondent vide proceedings Nil and dated Nil (published in the official website of TRB on 21.10.2019) and quash the same as illegal insofar as it relates to Question Nos.1, 23, 36, 109, 115 and 139 are concerned and consequentially to direct the second respondent to award 6 more marks in respect of the above referred questions and consider the petitioner's candidature (Roll No.19PG034001994) for appointment to the post of PG Assistant (Mathematics) in Tamil Nadu Higher Secondary Educational Service, pursuant to the notification issued by the second respondent vide No.10/2019, dated 12.06.2019.

For Petitioner : Mr.Mr.Mohammed Sunail
for M/s.Ajmal Associates

For Respondents : Mr.S.P.Maharajan
Spl. Govt. Pleader for R1 and R3
Mr.V.R.Shanmuganathan
Standing Counsel for R2

O R D E R

This Writ Petition has been filed to call for the records relating to the final key answer issued by the second respondent vide proceedings Nil and dated Nil (published in the official website of Teachers Recruitment Board (hereinafter referred to as 'TRB') on 21.10.2019), quash the same as illegal insofar as it relates to Question Nos.1, 23, 36, 109, 115 and 139 are concerned and consequentially, direct the second respondent to award 6 more marks in respect of the above referred questions and consider the



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petitioner's candidature (Roll No.19PG034001994) for appointment to the post of PG Assistant (Mathematics) in Tamil Nadu Higher Secondary Educational Service, pursuant to the notification.

2. The case of the petitioner is that the petitioner belonged to Backward Class and he has completed M.Sc., (Mathematics) and B.Ed. Pursuant to the notification issued by the second respondent to the post of Post Graduate Assistant in Tamil Nadu Higher Secondary Educational Service for the year 2018-2019, the petitioner has applied for the post of PG Assistant (Mathematics). The second respondent published the tentative key list thereby calling objections if any from the candidates with regard to key answers. The petitioner has not satisfied with the key answers in respect of the Question Nos.1, 23, 36, 109, 115 and 139. Hence, he raised objections with supporting documents. The objections were directed to be uploaded in the website of the TRB and the candidates are not entitled to take up the copy thereof. In fact, he made objections with regard to the aforesaid question numbers and the same was duly uploaded in the official website of the TRB on 09.10.2019. However, without considering his



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objections, the second respondent published the impugned final key answer on 21.10.2019. Despite his due acknowledgment, no action was taken. However, the petitioner was only awarded with 74 marks and he was not called for certificate verification and thus, he was not selected. If the petitioner was awarded with 6 more marks for the above said questions, he came within the zone of consideration and non awarding of marks, deprives his right to be considered for appointment to the post of PG Assistant. Challenging the key answer published by the second respondent, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the book published by the Anna University clearly demonstrates that the question paper prepared by TRB is incorrect and the answer key issued by the TRB is also wrong. Accordingly, he prayed for awarding 6 marks for the aforesaid questions by allowing the Writ Petition.

4. The learned Standing Counsel appearing for the second respondent has produced the Expert Committee's report before this Court.



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5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. On perusal of the Expert Committee's report, in respect of TRB Question No.17, the correct answer opined by the TRB is 'A' and the correct answer opined by the candidates is A,B,C,D and the final key answer recommended by the experts is also A.

7. It is culled out from the Expert Committee's Report:

Question Nos.	TRB Key	Candidates Claim	Final Answer Key Recommended by Experts
17.	A	A,B,C,D	A
22.	B	A,B,C,D	B,D
27.	A	B,D	A
49.	C	A	C
85.	D	A,B,C,D	D
102.	B	A,B,C,D	B



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8. Admittedly, the petitioner has not attended the above said questions on the ground that the question paper prepared by the TRB and the key answer published by TRB is wrong. Accordingly, he claimed marks in his favour. However, the expert opined that the key answer published by the TRB is correct, except TRB Question No.22, whereas, the correct answer opined by the TRB is 'B' and candidates by 'A', 'B', 'C', 'D' and however, the final answer key recommended by expert is 'B' and 'D'. Except this question, all the questions prepared by the TRB and opined by the expert is one and the same and further the petitioner has not attended the Question No.22. Without attending the TRB Question No.22, claiming mark is not sustainable.

9. The very same issue came up for consideration before the Hon'ble Apex Court in the case of ***Vikesh Kumar Gupta and others vs. The State of Rajasthan and others*** in ***Civil Appeal Nos.3649 and 3650 of 2020***, wherein, the Hon'ble Apex Court has categorically held that “*it is not permissible for the High Court to examine the question papers and answer sheets itself, particularly when the Commission has assessed the inter se*



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merit of the candidates. The Courts have to show deference and consideration to the recommendation of the Expert Committee who have the expertise to evaluate and make recommendations.”

10. For better appreciation, Paragraph No.11 of the judgment (supra) reads as follows:

"11. Though re-evaluation can be directed if rules permit, this Court has deprecated the practice of re-evaluation and scrutiny of the questions by the courts which lack expertise in academic matters. It is not permissible for the High Court to examine the question papers and answer sheets itself, particularly when the Commission has assessed the inter se merit of the candidates (Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr. MANU/SC/00401/2010 : (2010) 6 SCC 759) Courts have to show deference and consideration to the recommendation of the Expert Committee who have the expertise to evaluate and make recommendations [See- Basavaiah (Dr.) v. Dr. H.L. Ramesh & Ors. MANU/SC/0530/2010 : (2010) 8 SCC 372). Examining the scope of judicial review with regards to re- evaluation of answer sheets, this Court in Ran Vijay



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Singh & Ors. v. State of Uttar Pradesh & Ors. MANU/SC/1578/2017 : (2018) 2 SCC 357 held that court should not re-evaluate or scrutinize the answer sheets of a candidate as it has no expertise in the matters and the academic matters are best left to academics. This Court in the said judgment further held as follows:

“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 interference by the courts in the result of examinations. This places the examination



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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



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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.”

11. In the present case, already the Expert opined that the answer key published by the TRB is correct, in which, this Court cannot substitute the reasons for deferring the answers arrived at by the experts. Hence, the prayer sought for in the present Writ Petition cannot be granted.

12. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.01.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



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