



W.A.(MD).Nos.989, 970 & 1014 of 2021 & 770 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)Nos.989, 970 & 1014 of 2021 & 770 of 2022

and

W.P.(MD)Nos.14482, 18991 of 2020 & 9718, 9719, 11012 & 11021 of 2021

and

C.M.P.(MD)Nos.4499, 4371, 4593 of 2021, 6526 & 6527 of 2022

and

W.M.P.(MD)Nos.15921 of 2020 & 7454 to 7461, 8640, 8642, 8651 & 8652 of 2021

W.A.(MD)No.989 of 2021

R.Kingslin Caldwell

.. Appellant

Vs.

1.M.Varadharaj

2.The State of Tamil Nadu,

Rep. by The Principal Secretary to Government,
Home (Police) Department, Fort. St.George,
Secretariat, Chennai-600 009.

3.The Chairman,

Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Chennai-600 008.



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4.The Director General of Police,
Mylapore, Chennai-600 004.

5.Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Chennai-600 008.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 16.02.2021 made in W.P.(MD).No.197 of 2021 on the file of this Court.

For Appellant	: Mr.Mohammed Imran, for M/s.Ajmal Associates
For R1	: No Appearance
For R2 to R5	: Mr.Veera Kathiravan, Additional Advocate General, assisted by Mr.S.Shanmugavel, Additional Government Pleader

W.P.(MD)No.14482 of 2020

S.Kottai Kannan

.. Petitioner

Vs.

The Tamil Nadu Uniform Services Recruitment Board,
Rep. by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai-600 008.

... Respondent



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PRAYER: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Declaration, declaring the final key answer to Question Nos.74, 168 in written examination booklet “C” series for direct recruitment to the post of Sub Inspector of Police [Taluk, Armed Reserve (Men & Women / Transgender) and Tamil Nadu Special Police (Men)-2019] as wrong and award marks to the petitioner and consequently, to declare answer option B alone is the correct answer for question No.168 in the booklet “C” series more particularly, within a time as may be stipulated by this Court.

For Petition : Mr.J.Pooventhera Rajan
For Respondent : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by Mr.S.Shanmugavel,
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM,J.***)

The Tamil Nadu Uniformed Services Recruitment Board issued notification for direct recruitment to the post of Sub Inspector of Police [Taluk, Armed Reserve (Men & Women / Transgender) and Tamil Nadu Special Police (Men)-2019] vide notification No.02/2019, dated 08.03.2019. The recruitment was conducted to fill up 969 vacancies with reservation of 20% for the departmental quota. All the persons, who have filed Writ Appeals and the Writ



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proceedings before the High Court are the in-service candidates already working in the Police Department. They participated in the process of recruitment under 20% departmental quota.

2.It is not in dispute that the in-service candidates participated in the process of selection, including written examination, physical verification test and endurance test etc., Since they were unsuccessful, certain Writ proceedings are filed mainly on the ground that the questions and the options given are not relevant and the correct answer is not mentioned in the options by the Recruitment Board. In view of certain confusions in the right answers, the candidates were deprived of their opportunity for selection and accordingly, filed Writ Petitions and certain Writ Appeals are filed directly by the third parties by obtaining leave of this Court.

3.When the Writ Petitions came up for hearing, the Writ Court appointed One Man Commission Mr.R.Sankaranarayanan, then learned Additional Solicitor General of India was appointed to look into the correctness of the questions and the key answers given. The One Man Commission considered all the issues and the allegations raised by the candidates in the Writ proceedings and submitted a



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report. The report of the One Man Commission was considered by the learned Single Judge and accordingly, the Writ Petitions were disposed of with a direction to revisit the evaluations already done, in the light of the findings of the One Man Commission's report.

4.The learned Additional Advocate General appearing for the official respondents has made a submission that the said exercise had been completed on 15.04.2021 and eligible candidates were awarded marks and the selection list was finalized and published by the Recruitment Board. After finalization of the selection list by the Board, some other in-service candidates directly filed Writ Appeals by obtaining leave of this Court. Those candidates are not eligible in view of the fact that the learned Single Judge has confined the relief to revisit the evaluations only in respect of the candidates, who filed Writ Petitions.

5.The recruitment was of the year 2019. The Writ Petitions filed were adjudicated and One Man Commission was appointed by the Writ Court and based on the report, selection list also revisited and necessary marks were added for the eligible candidates, who approached the Writ Court and accordingly, final selection list was published on 15.04.2021. After such publication certain fence-



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sitters filed Writ Appeal after delay of two years from the process of recruitment.

More so, the Writ Appeals were instituted after publication of the selection list, pursuant to the directions issued by the Writ Court. Those, fence-sitters are now estopped from claiming any such benefits, since they were not parties in the original Writ Petitions nor approached this Court before finalization of the selection list by the Recruitment Board.

6.These fence-sitters were watching for about two years regarding the Writ proceedings filed by certain candidates and after finalization of the selection list, they have chosen to file Writ Appeals directly by obtaining leave of this Court. Such fence-sitters are not entitled for any relief. The Supreme Court time and again reiterated that in the process of selection, the claim of such fence-sitters cannot be considered on account of lapses of time.

7.The learned Additional Advocate General appearing for the official respondents has made a submission that in respect of W.P.(MD)No.14482 & 18991 of 2020, even after granting benefit of One Man Commission's report, these two writ petitioners are not within the zone of consideration and therefore, they were not selected.



8. In respect of revaluation, correctness of the questions and the scope of the judicial review, it had been elaborately considered by the Supreme Court in the case of ***Ran Vijay Singh and others Vs. State of Uttar Pradesh and others*** reported in **(2018) 2 SCC 357** and the relevant portion of the same is extracted hereunder:-

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 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



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30.5. *In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”*

9. In the case of ***Uttar Pradesh Public Service Commission, though its Chairman and another Vs. Rahul Singh and another*** reported in (2018) 7 SCC 254, the Supreme Court by following the principles laid down in *Ran Vijay Singh's case* held as follows:-

“10. In Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others, 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 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.”

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 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.”

10.In respect of W.A.(MD)No.770 of 2022, the learned counsel appearing for the appellant relied upon the order dated 19.09.2019 passed in REV.APLW.(MD)No.153 of 2019. In the said order, the Division Bench of this



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Court observed that the present candidates, who have not approached the Court, are also entitled to get marks and consequently, the Board has to redo the exercise as per the notification in accordance with law and published the list of eligible candidates to be appointed.

11.Pertinently, the said order was passed on 19.09.2019 ie., two years before publication of the final list on 15.04.2021. In S.L.P.(Civil) Diary No.26469 of 2020 filed against the said order, the Supreme Court vide order dated 29.04.2022 made the following observations:-

“Learned counsel accepts that the latter order will also have to be implemented.

We ask the counsel as to why this Court has been approached, to which his submission is that apparently other matters are also being filed before the High Court seeking similar benefits much later on.

We clarify that this cannot be an endless exercise going on and what was to be re-done once, once that is completed nothing more is required to be done.

The special leave petitions are dismissed as not maintainable and also on the ground of delay but with the aforesaid observations.”



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12.The Supreme Court in unequivocal terms clarified that redoing exercise cannot be an endless one and in the present case, it was already done, pursuant to the One Man Commission's report.

13.The report of the One Man Commission was taken into consideration by the Writ Court and all the Writ Petitions were disposed of with a direction to redo the exercise of granting marks, wherever required as per the report of the One Man Commission. Thus, we do not find any infirmity in respect of the exercise done by the Writ Court and the directions issued, which were already implemented and the selection list was finalized. Accordingly, all the Writ Petitions are dismissed. In respect of the Writ Appeals, after the final list was published on 15.04.2021, these Writ Appeals were filed. That being the factum, the appellants are not entitled for the relief as such sought for herein. In view of the above discussions, the order of the learned Single Judge is confirmed and these Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) & (V.L.N.,J.)

14.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Secretariat, Chennai-600 009.
2. The Chairman,
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Pantheon Road, Chennai-600 008.
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