



W.P(MD)Nos.22269 to 22275, 23482 & 23483 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.11.2022

DELIVERED ON : 20.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.22269 to 22275, 23482 & 23483 of 2022

and

W.M.P(MD)Nos.16446, 16447, 16449 to 16460,
17559, 17560, 17567 & 17568 of 2022

W.P(MD)No.22269 of 2022:

M.Neelaselvi

... Petitioner

Vs.

1.The State represented by
The Secretary,
School Education Department,
Secretariat,
Chennai.

2.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road,
Chennai – 6.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring the final key answer provided for the question paper in History pertaining to Question Nos. 12, 27, 69, 89, 102 and 108 provided by the second respondent as incorrect and consequently to direct the second respondent to award marks for the above said questions to the petitioner bearing Registration No. TRBPG352026 and consider, the name of the petitioner for the appointment to the post of P.G.Assistant (History) under Scheduled Caste Category within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1

Mr.V.R.Shanmuganathan for R.2

COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioners herein belong to various categories such as BC/MBC/SC. They are aspirants for the post of P.G Assistant (History). They applied in response to the recruitment notification dated 09.09.2021 issued by TRB. They were not selected. The stand of the writ petitioners is that they



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were not selected only in view of the wrong final key answers. That led to the filing of these writ petitions. The stand of the petitioners is that the key answers in respect of the petition mentioned questions are demonstrably and palpably wrong and that they should have been awarded marks in respect of those questions also.

3. The learned counsel appearing for the writ petitioners took me through the contents of the respective affidavits and contended that the relief sought for should be granted.

4. The Board filed counter-affidavits and the learned Standing counsel took me through its contents. I called upon the learned Standing Counsel to produce the expert opinions justifying the key answers for the petition-mentioned questions. Accordingly, the expert opinions were produced. The learned Standing Counsel primarily contended that it is not open to this Court to second-guess the correctness of the key answers. He relied upon the following decisions:-

1. Ran Vijay Singh V. State of U.P., reported in (2018) 2 SCC 357;
2. UPSC V. Rahul Singh, dated 14.06.2018 in Civil Appeal No.5838 of 2018; and
3. Mahesh Kumar V. Staff Selection Committee, dated 28.02.2022 in



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S.L.P.No.1951 of 2022.

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According to him, the Writ Court does not possess the jurisdiction to go into the correctness of the key answers.

5. I carefully considered the rival contentions and went through the materials on record. The orders in these cases were reserved on 14.11.2022. The cases were taken up on quite a few occasions and each of the petition-mentioned questions were carefully considered. I made it clear to the learned counsel appearing for the petitioners that I would go only by the materials relied on by the Board.

6. The learned Standing Counsel appearing for the Board had raised identical objections regarding maintainability in W.P.(MD) No.22129 of 2022. The decisions now relied on by him were cited before me in that case also. Vide order dated 02.11.2022, I rejected the said objection. Applying the decision of the Hon'ble Three Judges Bench of the Hon'ble Apex Court in ***Kanpur University V. Samir Gupta (1983) 4 SCC 309***, I held that if the candidate can demonstrate that the key answer is manifestly, demonstrably and patently wrong, this Court would not shut its eyes to what is obvious and apparent. I



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decided to adopt the very same approach in the present case also. However, I had to wait for a while to know if the order dated 02.11.2022 in W.P.(MD) No. 22129 of 2022 would be put to challenge by TRB. That is why I had to wait for some months. Since TRB did not question the said order, I am justified in following the same approach in this case also.

7. It is not necessary for me to deal with the key answers in respect of all the petition mentioned questions. After a careful consideration, with the consent of the counsel on either side, the focus is narrowed down to the following four questions :

“I) Question No.12 :

“ The Best Ruler of the Slave Dynasty -

A) Nasir ud din

B) Iltumish

C) Qutb ud din Aibak

D) Ghiyasud din Balban”

According to TRB, Option (B) is correct. According to the petitioners, Option (D) is correct. I went through the relevant pages in the book “History of Medieval India (Muslim Rule in India)” by V.D.Mahajan, revised by Dr.Mahesh Bhatnagar. TRB relies on this book. Interestingly, Iltumish as well as Balban have both been described as the greatest of the slave kings. This



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issue therefore will have to be revisited by TRB.

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II) Question No.27 :-

“ Who among the following British Officers lost their lives at Lucknow?

- A) General John Nicholson B) Brigadier General Neil*
C) Major General Havelock D) Sir Henry Lawrence ”

According to TRB, Option (D) is the correct answer. According to the petitioners, Option (B) is the correct answer. In fact, all the three persons respectively referred to in Option (B) to (D) died at Lucknow during the Siege. It is stated that Major General Havelock died due to dysentery. He was not killed in action. But Brigadier General Neil died fighting. The obvious facts of history ought not to be ignored. This is also a case for revisiting.

III) Question No.102 :-

“102. In 18 June 1815 Napoleon was defeated in the battle of Waterloo by the British forces under the leadership of _____.”

- A) Wellington B) John Keats*
C) Fraun Hofer D) Herold”



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As per the key answer, option “C” is the correct answer. The petitioners state that they have opted for option 'A'. The expert evidence produced by the TRB is as follows:-

“In 1814, Wellington defeated the French at Toulouse. The Russians, Germans and the Austrians advanced into France. When Napoleon found himself helpless, he abdicated in 1814. Although he came back to France from the Island of Elba, the Allies were determined to finish him. That led to the Battle of Waterloo (1815) in which Napoleon's army was completely routed. In this battle, the Duke of Wellington played the most important part.”

In the material relied on by TRB, the name of “Fraun Hofer (option 'C')” does not figure. On their own showing, option 'A' is the correct answer. Therefore, the petitioners have to be awarded mark if they have chosen the correct option as mentioned above for Question No.102.

“ Les Miserables” is one of the famous novels authored by the French writer Victor Hugo. I was reading an abridged English version. A character by name Marius tells the police inspector “ If I were you, I should bring a strong force.” The next line is as follows:-



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“ Javert looked at him as Wellington might have
looked if a lieutenant had offered him advice at Waterloo.”

This line in a novel indicates that the name of Wellington is inextricably linked
Waterloo. I can't help wondering at the sheer callousness with which the key
answer has been prepared for this question.

IV) Question No.108 :-

“108. Rome – Berlin – Tokyo Axis was signed in which year?

- A) October 1934 B) October 1935*
C) October 1936 D) October 1937”

According to TRB, Option (C) is correct. According to the petitioners, Option
(D) is correct. The material relied on by the TRB is as follows:-

*“Fascist Italy ran into economic difficulties. This compelled
Mussolini to embark on a policy of colonial expansion. Thus he
attacked Ethiopia on a flimsy pretext. King Victor Emmanuel III
was proclaimed emperor of a new Roman Empire. This created a
rift with the League of Nations and annoyed France and England.*



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This drove Italy to the arms of Germany and the result was Rome-Berlin-Axis which was created in October 1936. In April 1939 he occupied Albania. When France fell into the hands of Germany in June 1940, it was an opportune moment for Italy to hurl an offensive on England and France. In October 1939, ho attacked Greece but faced rough weather he could conquer it with the help of Germany. In Africa, despite its initial victory over England, the Italian armies were driven from the Fastern colonies and despite strong German reinforcement they were decisively defeated in the northern desert. The Allies landed in Sicily in July 1943. The Italian army chiefs conspired to overthrow Mussolini and arrested him. But the German army, in order to keep Italy in the war, rescued Mussolini and made him leader of the puppet republic of north Italy.”

It is true that the material indicates that Rome – Berlin – Axis was created in October 1936. The question is not about creation of “ Rome – Berlin – Axis ”. The question is about “ Rome – Berlin – Tokyo Axis”. It was signed only in October 1937. Therefore, the key answer is palpably wrong. The petitioners are entitled to one mark if they have chosen the correct option as mentioned above.



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8. TRB shall constitute another expert committee and take a call within a period of twelve weeks from the date of receipt of a copy of this order whether mark has to be awarded to the petitioners in respect of this question. I make it clear that the outcome of the said exercise will be confined only to the writ petitioners herein. Secondly, the decision to be taken by TRB after such exercise shall not be questioned by the petitioners.

9. The marks awarded to the petitioners will be revised accordingly. Their right to be appointed as Post-Graduate Assistants in History will abide by the said revision. The writ petitions are disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA/skm

To

- 1.The Secretary, School Education Department,
Secretariat, Chennai.
- 2.The Chairman, Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
College Road, Chennai – 6.



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G.R.SWAMINATHAN, J.

MGA/skm

Pre-delivery Order made in
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20.06.2023