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W.P.No.759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.759 of 2024
and
W.M.P.Nos.777 & 779 of 2024

G.Durairaj

Vs

....

Petitioner

1. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.

2. The Director General of Police,
O/o. The Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai – 600 004.

....

Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the Final Key Answer dated 26.09.2023 published by the first respondent for the selection to the post of Sub-Inspector of Police – 2023 (Taluk, Armed Reserve & Tamil Nadu Special Police (Men, Women & Transgenders) in respect of Question No.24 and Question No.64 in “B” Series, quash the same as illegal and consequently direct the respondents to award additional one (1) mark to the petitioner and send the petitioner for viva-voce examination to be held till 10.01.2024.



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For Petitioner : Mr.K.Venkataramani
Senior Counsel
For R1 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mrs.D.Sowmi Dattan
Standing Counsel
For R2 : Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition has been filed challenging the Final Key Answer dated 26.09.2023 published by the first respondent for the selection to the post of Sub-Inspector of Police – 2023 (Taluk, Armed Reserve & Tamil Nadu Special Police (Men, Women & Transgenders) in respect of Question No.24 and Question No.64 in “B” Series.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had participated in the process of selection to the post of Grade-II Police Constable conducted by the first respondent. Thereafter, he was appointed to the service as Police Constable on 01.02.2011. While being so, the first respondent had issued a Notification dated 05.05.2023 calling for applications for



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selection to the post of Sub-Inspector of Police-2023. Out of the total vacancies, 20% was ear marked for the departmental candidates. The petitioner had applied for the said post and appeared for written examination. He has secured 70.5 marks and he was made eligible to participate in the physical endurance test for which 67.5 marks was fixed as cut off. However, he was denied permission to attend the interview.

4. The learned Senior Counsel appearing for the petitioner contended that the petitioner was denied marks for the Question Nos.24 and 64 on the ground of choosing wrong answers. As far as the Question No.24 is concerned, he has chosen to answer based on the text books applicable for the 6th and 10th Standards. Insofar as the Question No.64 is concerned, the question itself is ambiguous and incapable to choose any answer out of four options. If the respondents prepared proper question paper, the petitioner would have obtained 71 marks, if he scored 71 marks he would be selected for interview.

5. The learned Additional Advocate General submitted that the petitioner was qualified for physical endurance test. In the said test,



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he secured 70 marks and as such, he was not qualified for interview. The interview is conducted on the basis of 1:2. After interview, the entire process is over and the selection list is yet to be published. Similar writ petitions were filed before this Court in W.P.Nos.29973 of 2023 and this Court, by a Common Order dated 30.11.2023, held as follows :-

“4. The core issue involved in these Writ Petitions is as to whether this Court, exercising its power under Article 226 of the Constitution of India, would be justified in analyzing the academic materials placed before this Court for the purpose of re-evaluating the final key answers?

*5. Such an exercise by this Court is neither feasible nor permissible, in view of the various decisions rendered by the Hon'ble Supreme Court, as well as the High Courts. In the case of **Uttar Pradesh Public Service Commission Vs. Rahul Singh and another** reported in **2018 (7) SCC 254**, this issue was predominantly dealt with in the following manner:*

“9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

*10. In **Kanpur University, through Vice Chancellor and Others vs. Samir Gupta and Others [(1983) 4 SCC 309]**,*



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this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong. Following observations of the Court are pertinent:-

“16.....We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct.....”

The Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others [(2018) 2 SCC 357], 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



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directing reevaluation 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 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



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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 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.”

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



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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



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must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

15. In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct.”

6. The aforesaid extracts are self-explanatory.

*The ratio that when the Experts have evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion of the Experts and array at its own conclusion, has been adopted consistently in various other decisions also, including this Court. When such powers have divested under a line of decisions rendered by the Hon'ble Supreme Court, including **Rahul Singh's case** (supra), this Court is unable to appreciate the grounds raised by the petitioners herein for the purpose of re-evaluating the questions to which the Experts in the concerned subjects have already rendered their opinion.*



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7. Above all, this Court, not being an expert in the subjects, would not venture into the exercise of elucidating the correct answers from the subject materials supplied by the petitioners herein. Furthermore, this Court finds no other reason as to why these disputed questions require reevaluation by another Expert Committee, when there are no sufficient materials questioning the competence of the earlier Expert Committee.”

6. That apart, the petitioner, immediately after examination, failed to challenge the answer key or the questions. The petitioner was qualified for physical endurance test and attended the test and failed to get full marks. Therefore, after having been selected in the physical endurance test, now the petitioner challenges the question No.24 and 64 as if the first respondent failed to prepare the question properly. When the Expert Committee had already rendered their opinion and the disputed key answers have also been re-evaluated and determined, which is not in conformity with the choice of answers attempted by the petitioners in the written examination, this writ petition cannot be entertained.



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7. Therefore, the writ petition is devoid of merits and it is

liable to be dismissed. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

12.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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