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W.P.No.17748 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM:

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

W.P.No.17748 of 2024 and
WMP.Nos.19485 & 19486 of 2024

C.Anushuya

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. By its Principal Secretary to Government,
School Education Department,
Fort St.George, Chennai 600 009
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006
- 3.Teachers Recruitment Board,
4th Floor, DPI Campus,
College Road, Chennai 600 006

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Declaration to declare that the petitioner is eligible to be appointed as Graduate Teacher – English pursuant to the recruitment notification No.3/2023 dated 25.10.2023 and addendum notifications No.03A & 03B/2023 dated 15.11.2023 and 17.05.2024.

For Petitioner : M/s.N.Kavitha Rameshwar



W.P.No.17748 of 2024

WEB COPY

For Respondents

For R3 : Mr.R.Siddharth,
Government Advocate

For R1 & 2 : Mr.M.Rajendran,
Additional Government Pleader

ORDER

This writ petition has been filed for declaration that the petitioner is eligible to be appointed as Graduate Teacher – English pursuant to the recruitment notification No.3/2023 dated 25.10.2023 and addendum notifications No.03A & 03B/2023 dated 15.11.2023 and 17.05.2024.

2. The petitioner completed B.A. (English) in the year 2013 and thereafter completed B.Ed. in the year 2015. She also passed Teacher Eligibility Test (hereinafter called as 'TET') conducted in the year 2017 in Paper II. Thereafter, the 3rd respondent issued the direct recruitment notification dated 25.10.2023 calling for applications to the post of Graduate Teachers/Block Resource Teacher Educators (BRTE). Pursuant to the said notification, she had applied for the said post and submitted



W.P.No.17748 of 2024

application in Roll Number 224020027. The petitioner belongs to BC category. Thereafter, the 3rd respondent conducted competitive examination on 04.02.2024 and the 3rd respondent published the results on 18.05.2024, wherein she scored 100 marks in the written examination and total mark is 103 (including weightage marks). Thereafter, the 3rd respondent published certification verification list for the candidates under various categories. Meanwhile, the third respondent published tentative key answer in the month February 2024 and directed to submit/upload objections to the said answer.

3.The learned counsel appearing for the petitioner submitted that the carbon copy or copy of OMR sheet at the time of written examination has to be provided, however in the present case, the 3rd respondent has not provided copy of OMR sheet to the candidates. The OMR sheet did not even contain the photo of the candidate. The candidates have no way to confirm the facts relating to the questions attended by them, the answers marked by them and compare the same with the answer keys and to be assured of transparency as well as correctness of the methodology



W.P.No.17748 of 2024

of marking adopted by the TRB. Further the 3rd respondent granted marks for 11 questions- Question Nos.44, 45, 66, 80, 85, 87, 93, 117, 129, 136, & 168 by publishing multiple answers for them in the final answer key while changing their stand from the tentative answer key published by them, and awarded marks for these questions to all those who marked any one of those multiple answers. Also, the 3rd respondent granted marks for 13 questions under 'Star Questions' category for the Question Nos.42, 76, 88, 98, 104, 113, 121, 126, 132, 156, 162, 178 & 179, citing small typographical errors. This amounts to windfall gains to undeserving candidates while artificially increasing the cut-off and thereby depriving candidates like the petitioner from proceeding to selection.

3.1 She further submitted that the 3rd respondent granted marks for the questions which have minor errors, like spelling mistakes in question and answers (multiple choice). This is the negation of proper assessment of merit and filtration of candidates to choose the best among them, which is the stated purpose of the competitive examination.



W.P.No.17748 of 2024

However, granting as many as 24 extra marks to those who have answered wrongly has amounted to pushing up the cut-off marks artificially. Further, as per the instructions given in the question booklet of the 3rd respondent stated that there is only one correct answer to each question. However contrary to the same, the respondents are now giving multiple choice as answer for 11 questions.

3.2 She further submitted that the 3rd respondent published the candidates list for certificate verification on 28.05.2024. There are 377 vacancies for the subject English, out of which 67 vacancies are allocated for MBC category, out of which they called only 80 candidates for certificate verification in MBC category. As per Clause 11 (C) of the recruitment notification dated 25.10.2023, the 3rd respondent has to call the candidates for certificate verification in the ration of 1:1.25. However, the 3rd respondent called only 80 candidates for certificate verification while they have to call 84 candidates for CV. The petitioner scored 103 marks and if the norms for certificate verification are stated above are followed, the petitioner should also have been called for



W.P.No.17748 of 2024

certificate verification as she is eligible under MBC category for the post of Graduate Teacher – English.

4. Heard the learned counsel appearing on the either side and perused the materials placed before this Court.

5. After written examination, the Board had released the tentative key answers with the question paper to raise objection from the candidates. Accordingly, the candidates submitted their objections through online as well as manual representation. Except some of the candidates, all the candidates were objected with materials to substantiate their answer with standard books acceptable by the Board. All the objections were placed before the experts for their final opinion. In fact, the Board has also released the status of objection tracker in the website along with the examination results. The petitioner raised the ground that awarding of grace marks for the star marked questions is nothing but artificially pushing up the cut-off marks of the candidates and the meritorious candidates, who were attended the questions, were also



W.P.No.17748 of 2024

treated equally with the candidates who were not attended those questions. In the case of no negative mark patten of exam, when the questions and answers are incorrect or ambiguous, the marks will be awarded to all the candidates invariably. Therefore, the contention raised by the petitioners cannot be countenanced. If the Board awarded marks only to particular candidates who attended the questions which were marked as star, as per the final key answer, it would cause prejudice to the candidates who were not attended the questions for the reason of incorrect or ambiguous questions and answers. For an example, in some of the answers, there are spelling mistakes. Therefore, the Board fairly awarded marks irrespective of all the candidates, who attended the questions or not attended the questions.

6. Further contention is that the one question has multiple answers. Because of the confusion, those who were attended the said question also to be awarded grace marks. If the question has multiple answers, the candidates who have chosen one of the correct answer would be given marks. Further, the multiple answers for some questions



W.P.No.17748 of 2024

only because of the materials produced by the candidates who objected the tentative key answers. Therefore, the experts decided as per the materials produced by the candidates and finalized the key answers with multiple answers for the very same questions.

7. Insofar as the contention raised by the petitioner to provide copy of OMR sheets, the Board initially scans the OMR sheets and will evaluate the same only after arriving the final key answer. The scanning of OMR sheets and evaluation processes are being carried out on computer basis only, without any human intervention. Further in order to maintain confidentiality, the OMR sheets of the individual cannot be provided to the candidates. Further, as per the notification, there is no expressed clause for providing OMR answer sheets to the candidates. Therefore, the candidates are not entitled for OMR answer sheets.

8. Further the experts committee, comprising of three minimum number of subject experts, thoroughly scrutinized the objections with the materials produced by the candidates and finalized



W.P.No.17748 of 2024

the answer key. Therefore, the Board has no role to play in the finalization of answer key. The petitioner appeared for examination and she has not been selected for certificate verification. Now she is seeking for declaration that she is eligible for certificate verification and seeking appointment for the respective post. Now, certificate verification has been conducted and the candidates have been called with ratio of 1:1.25 ratio. As per the said ratio, the qualified candidates were called for certificate verification.

9. The over all contention raised by the petitioner is that such kind of ambiguous questions and answers are caused serious prejudice to the meritorious candidates, since the candidates who did not know the answers and who failed to attend those questions were also awarded equal marks. The Hon'ble Supreme Court of India as well as this Court repeatedly held that when a conscious decision has been taken by the experts, the Courts have no expertise in the matter and academic interference with the same. Further there are no reason to suspect the credentials of those experts. This Court cannot sit on appeal as against



W.P.No.17748 of 2024

the experts opinion and adjudicate upon an academic issue whether the answers finalised by the expert body is correct or the answer that is projected by the candidates are correct.

10. In this regard, the Hon'ble Division Bench of this Court held in the case of ***Director of School Education Vs. Mercy Vennila*** in WA.No.598 of 2022, wherein it is held as follows:

“15.We have considered the rival submissions made on either side and perused the material records of the case. At the outset, even if the final key answers/the marks in respect of the said questions have to be interfered on any ground, the same cannot be done only with respect to the petitioners alone. The error if at all has to be corrected has to be done in respect of all the candidates. Therefore, the writ petitioners ought to have challenged the final key answers and the Select List. This Court, if at all could have interfered, can only order awarding of marks in respect of all the candidates and re-work the Select List. In the absence of such prayers and in the absence of such an exercise, allowing the Writ of Mandamus prayed for by the writ petitioners to grant marks for them alone is untenable as this exercise does



W.P.No.17748 of 2024

not result in the meritorious candidates being selected.

Therefore, the very writ petition, as filed for a Writ of Mandamus, is bound to fail.

16. Even otherwise, as rightly pointed out by the learned Additional Advocate General, the law on the subject has been categorically laid down by W.A.Nos.598, 600, 602 to 609 of 2022 the Hon'ble Supreme Court of India in the Uttarpradesh Public Service Commission Vs. Rahul Singh and Anr. (cited supra) that 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. Therefore, in the first place, when as per the notification draft key answers were published, the objections were invited and duly considered by an expert committee, appointing another expert committee itself is stretching the discretion, a little far. In any event, when the said experts, constituted by this Court, have opined that even in respect of the said questions, the questions are answerable and the key answers for the same are found to be correct and when the other candidates have answered the questions, the exercise undertaken by the learned Judge, to go into the merits of the said opinion and to form a contrary opinion certainly is not in order



W.P.No.17748 of 2024

as per the dictum laid down by the Hon'ble Supreme Court of India and therefore, we have no other option than to interfere with the order of the learned Judge and thus, we find that the order of the learned Judge is unsustainable.”

11. In the case of ***Priya.N. Vs. The Secretary to Tamilnadu*** in WP(MD)No.2527 of 2015, this Court held as follows:

“4.The said questions as alleged by the petitioner were evaluated for the purpose of awarding marks and accordingly, cut-off marks were fixed. Thus, the writ petitioner cannot seek direction to reevaluate the questions. Once the questions are evaluated and a common decision is taken by the Teachers Recruitment Board to award marks or not to award marks, it is to be applied uniformly to all the candidates who participated in the process of selection. In the present case, the said five questions were not omitted by the Teacher Recruitment Board. This apart, the Teachers Recruitment Board has categorically stated that regarding the correctness of the answers, the Court is not an expert body. The Court cannot evaluate the answers or answer sheets.



W.P.No.17748 of 2024

5.This being the factum now established, after a lapse of about five years, the selection already made deserves no interference and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.”

12. Also in the case of ***Sumathi Vs. The Chairman*** in W.P.No.3063 of 2022 dated 21.02.2022, this Court held as follows:

"4. Admittedly, the final key answers have been made by an expert body constituted. The appellants are not able to demonstrate before us that the said key answers are not correct. In this regard, it is quite opposite to point out a Division Bench judgment dated 20.12.2012 passed by this Court in W.A.No.837 of 2010, wherein, the methodology adopted in not awarding any mark to certain questions, was approved. This apart, the appellants cannot seek marks without even knowing as to whether the answer given by them was correct or not".

Apart from this, this Court, in W.P No.29605 of 2013 has held that the correctness of the said question has already been decided by this Court in earlier writ petitions and the aforesaid judgment was confirmed by



W.P.No.17748 of 2024

the Division Bench of this Court in W.A.No.1097 of 2014. In the light of the aforesaid facts and decisions cited supra, especially dealt with recruitment, there is no merits in this writ petition and the same is liable to be dismissed.

5. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.”

Thus, it is settled law that while exercising the discretionary and extraordinary power under Article 226 of the Constitution of India, this Court cannot act like an expert body, by replacing the assessment made by the experts.

13. That apart, now the entire certificate verification has been completed and the Board is about to publish the selection list. At this juncture, if the claims of the petitioner is accepted, it will lead to alteration of selection list, thereby selected candidates will be prejudiced. As stated supra, if there is discrepancy in framing the questions, answers and awarding marks, it will be for all the candidates and not for the petitioner only.



W.P.No.17748 of 2024

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14. This Court cannot overstep the jurisdiction of the respondents to upset the opinion of the experts. The questions which are marked with star are awarded marks irrespective of all candidates, who had attended or not attended the star marked question. Further, for the questions in multiple answers, the candidates who marked any one of the answer as per the final key answers, were awarded marks. Even after awarding the marks to the petitioner, she did not come under the zone of consideration for certificate verification.

15. Therefore, the prayer sought for in this writ petition cannot be granted. However considering the facts and circumstances, this Court is inclined to pass the following directions :-

(i) In future, the Board must ensure that there will not be any ambiguous questions and answers in the examination for any recruitment.

(ii) The Board is directed to verify the draft question papers and



W.P.No.17748 of 2024

tentative answer key before sending them for printing.

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(iii) The Board is directed to correct the draft question papers and key answers with the help of experts who are not the original question paper setter.

(iv) The Board is directed to frame guidelines for the experts to arrive correct answers with approved materials.

16. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

03.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.17748 of 2024

To

- 1.Principal Secretary to Government,
The State of Tamilnadu,
School Education Department,
Fort St.George, Chennai 600 009
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai 600 006
- 3.Teachers Recruitment Board,
4th Floor, DPI Campus,
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W.P.No.17748 of 2024

G.K.ILANTHIRAIYAN, J.

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W.P.No.17748 of 2024



WEB COPY



W.P.No.17748 of 2024

03.07.2024