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W.A.No. 2762 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 20.06.2024

DELIVERED ON: 08 .07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE KUMARESH BABU

W.A.No. 2762 of 2022

R.K.Dhanapriya

.. Appellant

Vs

1.The Chairman

Teachers Recruitment Board,
4th Floor,E.v.K.Sampath Maligai,
College Road, Chennai-600006.

2.Public Information Officer,
Teachers Recruitment Board,
4th Floor,E.v.K.Sampath Maligai,
College Road, Chennai-600006.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.11.2022 in W.P.No. 34481 of 2018.



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For Appellant : Mrs. Nalini Chidambaram, Senior Counsel

For Respondents : Mr.R.Neelakandan, AAG

Assisted by

Mr K.Sathish Kumar, Standing Counsel for
TRB

J U D G M E N T

D.KRISHNAKUMAR, J.

Aggrieved by the order passed by the writ court in W.P.No. 34481 of 2018, dated 14.11.2022, the present writ appeal has been filed by the appellant.

Facts in brief:

2. The appellant has completed D.T. Ed., M.A., M.Ed., and appeared for the TET 2017 pursuant to the Advertisement No.01/2017, dated 24.02.2017 issued by the 1st respondent. The appellant secured 81 marks in the written examination. The pass mark is 82. The appellant was not called for certificate verification as she has not secured eligible pass marks in TET.



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The controversy relates to question no. 148 in series A. In which the answer marked by the appellant as option 'B'. The tentative key answer given by the TRB also option 'B'. Subsequently, on 30.6.2017, the final key answers were published mentioning the correct answer as option 'D' based on the expert committee opinion. Challenging the same, the appellant has preferred a writ petition before this Court and the same was dismissed by order dated 14.11.2022, hence the present writ appeal.

3. The learned senior counsel for the appellant has submitted that the writ Court ought not to have dismissed the writ petition without perusing the expert committee report regarding question No. 148 and without proper explanation from the respondent-Board regarding change of answer as option 'D', deviating from their original answer option 'B' as published in the tentative key list. Further, the expert committee report, not being a privileged document, should have been made available to the appellant once submitted to the Court. Therefore, the respondents violates the principles of natural justice for not providing the expert committee report and deprived the opportunity to the appellant to challenge the same.



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4. The learned senior counsel for the appellant has further submitted that the learned Single judge did not appreciate the respondents' argument in para 16 of the counter-affidavit, which claimed that accepting the appellant's stance would open floodgates for similarly placed candidates and disrupt the recruitment process for B.T. Assistants. This argument is untenable as the TET is not a competitive exam but an eligibility test for candidates aspiring to become teachers. Thus, the notion of opening floodgates does not arise. The learned senior counsel for the appellant has further submitted that since the learned Single Judge dismissed the writ petition without affording a chance the appellant to question the expert committee's decision, the same is liable to be set aside.

5. On the other hand, the learned Additional Advocate General appearing for the respondent-Board vehemently opposed the said submissions made by the learned senior counsel for the appellant and submitted that the learned judge correctly exercised judicial discretion in assessing the expert committee report on question No. 148. The tentative



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key answer initially released on 22.05.2017 by declaring Answer –B as correct and subsequently has released final key by changing the answer from option ‘B’ to ‘D’ based on comprehensive analysis by the expert committee after receiving objections from the candidates. The alteration was made to ensure accuracy and fairness in the evaluation process.

6. The learned Additional Advocate General appearing for the respondent-Board has further submitted that any deviation from the established procedure would lead to similar claims, severely hampering the administrative efficiency and integrity of the recruitment process. Therefore, the impugned dismissal order passed by the learned Single Judge is legally sound and does not require any interference by this Court.

7. Heard the learned senior counsel appearing for the appellant and the learned Additional Advocate General appearing for the respondents and perused the materials available on record.



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WEB COPY 8. The core issue revolves around the alteration of the answer published in the tentative key answer for the question No. 148 in Series 'A' based on the expert committee report.

The question was

- i) The earth rotation causes day and night
- ii) The earth's revolution cause seasons

Options given:

- A). Both (i) and (ii) are wrong
- B). Both (i) and (ii) are right
- C). (i) is wrong (ii) is correct
- D). (i) is right (ii) is wrong

9. According to the appellant, she has written the answer to question No. 148 as option 'B' and it is correct. In the tentative key answer published by the respondent-Board on 22.05.2017 and the answer for question No. 148 was also mentioned as option "B." However, the expert committee later changed this answer to option "D." The appellant contends that the expert committee report, which supported this change of answer, was not disclosed to her, thus violating the principles of natural justice. The contention of the



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appellant is that she has been deprived from effectively challenging the decision, especially since she had valid materials from text books supporting option "B" as the correct answer.

10. The respondents assert that the expert committee's decision was made after thorough analysis and that internal reports are not required to be disclosed to candidates. According to the respondents, any deviation from the established process could lead to numerous similar claims, potentially disrupting the recruitment process.

11. A similar issue came up for consideration In the case of ***T. Jothimalar vs. The State of Tamil Nadu (W.A.No. 3552 of 2023, dated 24.05.2024)***, wherein the Hon'ble Division Bench held that while it is generally inappropriate for courts to interfere with expert opinions in academic matters, the courts are not bound to accept such opinions blindly if it is demonstrated that the opinions are unreliable. The relevant portion of the judgment is extracted below;



12. We find considerable force in the submissions of the learned counsel for the appellant. It is true that the respondents have constituted an expert committee and the committee had concluded that 15 questions in 11 sessions asked in the competitive examination are not correct and recommended for change of the key answers. However, insofar as question No.26 is concerned, the experts have opined that answer No.4 is correct and not answer No.3, which was written by the appellant.

13. It is well settled that this Court has no expertise to examine the correctness or otherwise of the answers set by the respondents. For this purpose, an expert committee was constituted. However, the expert opinion need not be relied on as a gospel truth by this Court. This is more so that the appellant placed heavy reliance on the approved text book (Tamilnadu Open University - B.Ed. - Second Year - Science Teaching - Part II). It is needless to mention that the book has been approved by the Tamil Nadu Open University and the candidates, including the appellant, who appeared for the competitive examination must have relied on the same. On going through the question No.26, we feel that the third option (A3) is the correct answer and it was written by the appellant. This is also fortified from the approved text book relied on by the appellant. Even otherwise, the question No.26 is a negative question as to whether which one of the following is not a part of teaching. For such question, answer No.3, in our opinion, will be more appropriate and has a nexus to the question.



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While so, merely because the experts have opined the correct answer as A4, we need not blindly accept it knowing fully well that it is wrong and dismiss the appeal of the appellant.

14. It is well settled position of law that the Courts should be slow in interfering with expert opinion in academic matters. However, there is no embargo for the Courts to disregard the opinion of the experts, if it is demonstrated that the opinion so rendered may not be correct and unreliable. In this regard, in the decision of the Honourable Supreme Court reported in Kanpur University case mentioned supra, it was held that judicial review cannot be totally ousted in certain circumstances where it was established that the answer set by the respondents is palpably wrong. In this case, on perusal of question No.26 and the four choice of answers given thereto, we are of the view that answer No.3 written by the appellant will be more appropriate and it is also supported by the approved text book. While so, we see no reason to reject the contentions urged on behalf of the appellant to award one more mark to her for Question No.26. Thus, on the strength of the approved text book produced by the appellant, we are of the definite and clear view that the answer to the question No.26 is A3 which was correctly written by the appellant. Therefore, the appellant is entitled to one more mark for question no.26.

15. In the result, the writ appeal is allowed by setting aside the order dated 23.11.2023 passed in WP No. 33050 of 2023. The respondents are directed to award one more mark to the appellant for question



No.26 and consequently declare her as having passed the TET examination held on 11.02.2023. No costs. Consequently, connected miscellaneous petitions are closed."

12. In the above case, the Hon'ble Division Bench found that the appellant's answer was correct based on approved text books and granted her one mark. The said judgment emphasized that judicial review is permissible when it is established that the answer set by the respondent-Board is wrong.

13. In the present case on hand, admittedly, the respondent Board in the tentative key answers given the correct answer for question no. 148 Series 'A' as option 'B', thereafter it was changed as option 'D' based on the expert committee's report . The question now arise before us is whether the appellant is eligible for one mark for the said question no. 148.



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WEB COPY 14. Drawing inference from the *Jothimalar's case*, it is evident that courts have the authority to disregard expert opinions if it is demonstrated that the opinions are incorrect and unreliable. In the present case, the initial tentative key answer for question No. 148 provided by the respondent-Board was option 'B', which was later changed to option 'D' based on the expert committee's opinion. The appellant has substantiated her claim with textbooks approved by the Tamil Nadu Text Book Corporation, which support option 'B' as the correct answer. The respondent-Board initially provided option 'B' as the correct answer and later changed it based on the expert committee's opinion, it raises questions about the reliability of the committee's decision, especially in the absence of the report's disclosure to the appellant.

15. The alteration of the key answer without proper disclosure of the expert committee's report constitutes a violation of the principles of natural justice, as it denies the appellant a fair opportunity to present her case. The expert committee's decision, being undisclosed and unchallenged, cannot be



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deemed conclusive. The appellant should not be penalized for an error made by the respondent-Board.

16. To substantiate her claim, the appellant relied on the text books which was approved by the Tamil Nadu Text Book Corporation. On the other hand, the expert committee also relied on some other text book which was also approved by the Tamil Nadu Text Book Corporation. If the answer (option-B) for the said question is really wrong, the respondent-Board could not have mentioned the said answer in the tentative key answer. Even for the sake of arguments, if the said question was not referred to the expert committee, the respondent Board should have awarded one mark for the said answer. Therefore, in the absence of the any mistake on the part of the appellant and due to the change of decision by the respondent-Board, the appellant cannot be punished.

17. Based on the above considerations and the decision of the Hon'ble Division Bench in principles laid down in the *Jothimalar* case, We are of the view that the appellant is entitled to one mark for question No. 148.



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Consequently, the order of the learned Single Judge dismissing the writ petition filed by the appellant warrants interference and accordingly it is set aside. The respondent-Board is directed to re-evaluate the result of the appellant and award one mark to her for question No. 148 -Series 'A' and consider for selection to the post of Graduate Assistant, if she is otherwise eligible, within a period of six weeks from the date of receipt of a copy of this judgment.

18. In the result, the writ appeal is allowed. No costs.

[D.K.K., J.] [K.B., J.]

08.07.2024

Index: yes

Internet:yes

Speaking Order

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**D.KRISHNAKUMAR, J.,
&
K. KUMARESH BABU, J.**

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To

1.The Chairman
Teachers Recruitment Board,
4th Floor,E.v.K.Sampath Maligai,
College Road, Chennai-600006.

2. The Public Information Officer,
Teachers Recruitment Board,
4th Floor,E.v.K.Sampath Maligai,
College Road, Chennai-600006.

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