



W.P.No.32760 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.32760 of 2023

G.Vivekanandan

... Petitioner

Vs.

1.The Registrar General,
High Court of Madras,
Chennai-600 104.

2.The Registrar,
Recruitment Cell,
High Court of Madras,
Chennai – 600 014.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus, to quash Option “A” for the question No.13 in Law Paper-II in the preliminary examination for recruitment of District Judge Post (Entry Level) in Tamilnadu State Judicial Services held on 30.09.2023 and direct the 2nd respondent to treat option “D” as the Correct Answer for Question No.13 and Consequently, direct the 2nd respondent to award 1 Mark (ONE) to the petitioner.



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For Petitioner : Mr.S.Udhayakumar
For Respondents : Mr.B.Vijay

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

This Writ Petition has been filed to quash Option A for the Question No.13 in Law Paper-II in the Preliminary Examination for recruitment of District Judge Post (Entry level) in Tamilnadu State Judicial Services held on 30.09.2023 and further to direct the 2nd respondent to treat Option D as the Correct Answer for Question No.13 and award 1 mark (one) to the petitioner.

2. The case of the petitioner is that he applied for the post of Tamil Nadu District Judge (Entry Level) pursuant to the Notification No.01 of 2023 dated 01.07.2023 and had participated in the preliminary examination conducted on 30.09.2023. In the examination, he was given Booklet “A” series. It is his further case that upon verification of answer keys uploaded in the website, it was found that there was an error in the proposed Answer Key with respect to Question No.13 in Law Paper-II (A series). Though he had written correct answer in respect of Question No.13, there was an error apparent on the proposed key answers published by the 2nd respondent, which



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had resulted in the petitioner sending a representation to the respondents by email on 05.10.2023 and in person on 10.11.2023. It is also his case that he had secured 43.75 in Law Paper-I and 34.50 in Law Paper-II. Had the answer to the above question been in accordance with the relevant provisions of the Act, he would have been qualified for the next stage. Aggrieved by the same, the petitioner has come forward with this writ petition for a suitable direction.

3. At the first blush, we feel it appropriate to extract question No.13 of Paper-II for the sake of convenience as under:

“13.Which of the following proposition is correct?

- A) Nothing is an offence which is done by a Judge when acting judicially*
- B) Nothing is an offence which is done by any person who is justified by law*
- C) Nothing is an offence which is done by any person by accident in doing a lawful act*
- D) All the above”*

For the above extracted Question No.13, the petitioner has stated that option ‘D’ (all the above) is the correct answer and he has also referred to Sections 77,79 and 80 of IPC in support of his submission. Section 77, 79 and 80 of IPC are extracted hereunder:



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“77. Act of Judge when acting judicially – Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

79. Act done by a person justified or by mistake of fact believing himself justified, by law – Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

80. Accident in doing a lawful act- Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.”

4. Though the argument of the petitioner appears to be attractive, before all else, when seen in depth, certainly option ‘D’(all the above) is not the correct answer, for the reason that a tricky question has been framed to testify the extensive knowledge of the candidates to answer as to whether it is an offence, which a Judge has committed while acting judicially. If an



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offence is committed in the course of judicial action, it cannot be construed as an offence in the light of the provisions of Section 77 IPC and therefore, option 'A' (Nothing is an offence which is done by a Judge when acting judicially) is the correct answer.

5. For the above reason, we are of the view that the relief sought for by the petitioner has no legs to stand and accordingly, the Writ Petition fails. In the result, this Writ Petition is **dismissed** as devoid of merits. No costs.

[S.M.S,J.] [K.R.S,J.]
29.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

To

1.The Registrar General,
High Court of Madras,
Chennai-600 104.

2.The Registrar,
Recruitment Cell,
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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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Order in
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