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W.A(MD)No.1732 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2024
(Reserved on 15.10.2024)

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)No.1732 of 2024
and
CMP(MD)Nos.13277 and 13279 of 2024

The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway,
Park Town,
Chennai-600 003.

... Appellant

vs.

1. M.Muthulakshmi
2. M.Mani Mehala
3. S.Muthuselvam
4. M.Gunaseelan

... Respondents

Prayer : Appeal filed under Clause 15 of Letters Patent, against the order made in W.P(MD)No.8105 of 2024 dated 27.06.2024.

For Appellant	: Mr.Isaac Mohanlal, Senior Counsel for Mr.V.Panneer Selvam
For Respondents	: Mr.G.Sakthi Rao



W.A(MD)No.1732 of 2024

JUDGMENT

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

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The Tamil Nadu Public Service Commission is on appeal aggrieved by the directions issued by the Writ Court requiring it to publish the key answer and provide copy of the answer sheets before completion of the selection process.

2. The factual matrix is as follows:

The respondents herein / writ petitioners challenged certain clauses in the instructions to the applicants in Paragraphs 3.7 and 3.8 in the Notification of the TNPSC issued on 30.01.2024, calling for applications for posts in Group-IV services of the Government of Tamil Nadu and sought for quashing the same as illegal and also to remove instructions to applicants in Sub Clause (viii) and Sub Clause (x) of Paragraph 17-D. A consequential direction to publish the final answer key and also provide copy of the OMR sheets to the candidates before publishing the final results, was also sought for.

3. The impugned clauses in the Notification issued by the TNPSC read as follows:

"17-D (viii) தெரிவுப்பணிகள் முழுமையாக
முடிவடையும் வரை, தேர்வு தொடர்பான இறுதி



WEB COPY



W.A(MD)No.1732 of 2024

விடைகளை தேர்வாணையம் வெளியிடாது.

The Commission shall not publish the final answer key until the completion of the entire selection process.

(x) ஒரு பதவிக்கான தெரிவுப் பணிகள் முற்றிலுமாக முடியும் முன்னர், தங்களது மதிப்பெண் அல்லது விடைத்தாள் / விடைப்புத்தகம் நகல் அளிக்குமாறு கோரும் விண்ணப்பதாரரின் கோரிக்கைகள் ஏற்றுக் கொள்ளப்பட மாட்டாது.

Requests from candidates for furnishing of their marks or answer paper copy before the completion of the entire selection process, will not be entertained by the Commission."

4. Clauses 3.7 and 3.8 in Annexure 4 [Instructions to be followed by the candidates while appearing for written examinations (Objective Type) conducted by the Commission] read as follows:

"3.7. The Commission shall not publish the final answer key until the completion of the entire selection process.

3.8. Requests from candidates for furnishing of their marks or answer paper copy before the completion of the entire selection process, will not be entertained by the Commission."



5. The grievance of the writ petitioners is that unless the key answers are published before completion of the entire selection process, the candidates will be prevented from knowing the correct answers and they will be prevented from assessing their performance in the examination. The petitioners have also drawn parallels from the other Recruitment Boards like, the Teachers Recruitment Board which also engage in recruitment of candidates for Government service. The contention of the TNPSC is that if the key answers are published before completion of the entire recruitment, many candidates will challenge the answer key and there is a possibility of the entire selection process being scuttled midway resulting in delay in recruitments. The TNPSC would also contend that once the entire selection process is over, all the key answers and marks obtained by the candidates are published which will enable the candidates to assess their performance. This contention of the appellant is countered by the respondents claiming that once the selection process is over and the select list is published, even if the candidate comes to know that he or she has not been given the due marks, there will be no post available for the candidate and hence publication of the key answers and the marks after the selection process is completed, is actually of no use. The petitioners would also claim that the selection process for Group-IV has only one stage namely, an objective type written examination and once the written examination is completed, there is no further process and the candidates who secured the



W.A(MD)No.1732 of 2024

minimum cut off marks in the written examination are automatically appointed after certificate verification. Therefore, the claim of the TNPSC that this will lead to scuttling of the selection process midway will not apply at least for this kind of a selection. If the selection process is a multi-tiered one, there may be some justification in the apprehension of the TNPSC that further proceedings will get stalled.

6. The Writ Court took note of this particular feature namely, the selection process being a one step process, publication of the key answers immediately after they are finalised and before the final select list is announced, will not be a hindrance to the selection process. The learned Single Judge also took note of the fact that other recruitment agencies including the recruitment of judicial officers, release the answer key soon after the examination and held that this will not prejudice the selection process. Therefore, the Writ Court directed the respondents to come forward with an Addendum stating that the aggrieved candidates can get information about the answer key and copies of answer sheets even before the selection process is completed and the respondent/TNPSC themselves should come forward and publish the final answer key. This direction of the Writ Court, according to the TNPSC, would prejudice the selection process and hence the Commission is on appeal.



W.A(MD)No.1732 of 2024

7. We have heard Mr.Isaac Mohanlal learned Senior Counsel appearing for the TNPSC and Mr.G.Sakthi Rao, learned counsel appearing for the candidates / respondents.

8. Mr.Isaac Mohanlal would contend that the prohibition contained in the notification has been introduced with an object of avoiding candidates rushing to the Courts during the selection process and attempting to scuttle it midway. He would also submit that the TNPSC has never been publishing the answer key or the marks of the candidates before the selection process is over. He would also invite our attention to the judgment of the Hon'ble Supreme Court in *Central Board of Secondary Education and another vs. Aditya Bandopadhyay and others* reported in (2011) 8 SCC 497 and the judgment of a Full Bench of this Court in *Vidya Devarajan and others vs. Secretary, Tamil Nadu Public Service Commission* reported in 2020 (3) CTC 769.

9. Mr.Sakthi Rao, learned counsel appearing for the respondents / candidates would submit that an apprehension that the candidates will rush to Courts cannot be a justification for not publishing the answer key. A candidate who appears for a selection process is entitled to know whether he/she has answered the questions correctly and whether he/she has been granted the marks due to him/her. Such information cannot be kept away from the



W.A(MD)No.1732 of 2024

candidates.

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10. We have considered the rival submissions.

11. The only apprehension of the appellant is that if the answer key is published, the candidates might rush to Courts. In *Aditya Bandopadhyay's case (supra)*, the Hon'ble Supreme Court considered the scope of the Right to Information Act, 2005 on the issue as to whether the examinee could seek to inspect his evaluated answer book in a public examination or take certified copies thereof. In answering the question, the Hon'ble Supreme Court held that the exclusions provided under the Right to Information Act, 2005, should also be considered. The Hon'ble Supreme Court also concluded that if the rules and regulations of the examining body provide for revaluation, inspection or disclosure of answer books, the said rules and regulations would prevail and the judgment in *Maharashtra State Board of Secondary and Higher Secondary Education vs. Paritosh Bhupeshkumar Sheth* reported in (1984) 4 SCC 27 will not apply to such cases. The said decision dealt with answer sheets and not key answers. It was also confined to the scope of the provisions of the Right to Information Act, 2005. In *Vidya Devarajan's case (supra)*, similar instructions issued by the TNPSC were under challenge. A question was posed to a Larger Bench of this Court as to whether the candidates who have participated in the



W.A(MD)No.1732 of 2024

written examination conducted by the TNPSC as **part of the recruitment process** and who have not been called for viva voce, are entitled to receive the answer sheets and marks before completion of the entire selection process for such recruitment. The Full Bench found that the issue referred to it was covered by a judgment of the Hon'ble Supreme Court in *Union Public Service Commission and others vs. Angesh Kumar and others* reported in **2018 (2) CTC 337 (SC)**. The process of selection for a Civil Judge made by the TNPSC is a three-tiered process. It consists of a preliminary examination which is essentially an objective type examination, which serves as an exclusion process, followed by a summary type written examination and a viva voce. The Hon'ble Supreme Court was also concerned with a similar multi-tiered process of selection in *Angesh Kumar's case (supra)*. Further, the question that was considered by the Hon'ble Full Bench was whether the candidates are entitled to the answer sheets or marks before completion of the entire selection process for such recruitment.

12. From a reading of the judgment of the Full Bench, we will have to necessarily conclude that the law is settled with reference to a multi-tiered selection that the candidates will not be entitled to receive the answer sheets and marks before completion of the entire selection process for such recruitment. Whether such prohibition could be extended to a single-stop



W.A(MD)No.1732 of 2024

selection process needs to be considered. The apprehension of the appellant that the candidates will rush to Courts and stall the selection process if the answer key is published, does not appear to be reasonable particularly in a single-stop selection process. The selection process for Group-IV posts in the Tamilnadu Government Service consists of only one stage namely, objective type written examination which consists of multiple choice questions. Once the candidate scores the cut off marks applicable to the category under which he or she applies, he or she will automatically be selected, subject only to certificate verification. Therefore, publishing the answer key immediately after it's finalisation before publishing of the select list will not prejudice the selection process. After all, the candidate who appears for an examination is entitled to know the final answer key and screening it away till the completion of the entire selection process in respect of a single-stop selection, in our opinion, may not be just and reasonable. Once the key answers are finalised, a candidate is entitled to know whether he/she has been awarded proper marks based on the final key answers. We come across several mistakes in the key answer for objective type examinations conducted by the recruiting agencies. Of course, in all objective type multiple choice examinations, the nearest correct answer is deemed to be the correct answer. A question which is capable of two or three answers cannot be avoided in the objective type examination, but Courts have always held that in such situation, the nearest correct answer would be the final



W.A(MD)No.1732 of 2024

answer and that would be decided by the recruiting agencies. Therefore, we are of the firm opinion that publishing of the final key answer in a selection process where there is only one stage of selection namely, an objective type written examination, will not scuttle the selection process and the apprehension of the TNPSC is not justified.

13. As regards the furnishing of mark sheets or the OMR sheets, the issue is squarely covered by a judgment of the Hon'ble Supreme Court in *Aditya Bandopadhyay's case (supra)*. Therefore, we do not think we can interfere with the decision of the TNPSC with reference to the same. The Writ Court had only directed releasing of the answer key and it has taken care to exclude the claim for furnishing the copies of the mark sheets. We, therefore, do not see any merit in the appeal.

14. Hence, the Writ Appeal fails and it is accordingly dismissed. We make it clear that Sub Clause (viii) of Clause 17-D of the instructions issued to the candidates and Clause 3.7 of in Annexure 4-Instructions to be followed by the candidates while appearing for written examinations (Objective Type) conducted by the Commission, alone are quashed. The TNPSC will, in future, publish the answer key immediately after it's finalisation before publishing the select list only in recruitments which have a single objective type examination



W.A(MD)No.1732 of 2024

alone and not in other cases where the recruitment process is a multi-tiered one.

We direct the parties to bear their own costs. We also record the submission of the learned standing counsel for the TNPSC that the selection process now is complete and the same is not interfered with. Consequently, connected miscellaneous petitions are closed.

(R.S.M, J.) (L.V.G, J.)
02.12.2024

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W.A(MD)No.1732 of 2024

R.SUBRAMANIAN, J.

and

L.VICTORIA GOWRI, J.

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PRE-DELIVERY JUDGMENT

MADE IN

W.A(MD)No.1732 of 2024

DATED : 02.12.2024