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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.26474 of 2024

and

W.M.P(MD)Nos.22419, 22421 & 22423 of 2024

C.Ramkumar

... Petitioner

Vs

1.The Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar,
Park Town,
Chennai – 600 003.

2.The Under Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar,
Park Town,
Chennai – 600 003.

3.The Controller of the Examination,
Tamil Nadu Public Service Commission,
VOC Nagar,
Park Town,
Chennai – 600 003.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent vide his proceedings Nil dated Nil (Published in the website of the TNPSC on 28.10.2024) and quash the same as



illegal and consequentially directing the respondents to validate the OMR Sheet having Register No.1007014047 belonging to the petitioner pertaining to Group-IV service and published the result of the petitioner.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.V.Panneer Selvam
Standing Counsel

ORDER

The instant writ petition has been filed by an aspirant to the post of Group-IV Services pursuant to TNPSC Notification No.1 of 2024, dated 30.01.2024 seeking to quash the order of TNPSC dated 28.10.2024, wherein the commission has declared that the OMR answer sheet of the writ petitioner is not fit for valuation.

2.According to the learned Counsel appearing for the writ petitioner, in the OMR sheet, a space has been provided for writing down the booklet number in numerals and provision has been made to shade the bubbles in consonance with the question booklet number. Though the petitioner has written the question booklet number correctly, at the time of shading, there was a mistake on the part of the candidate. Therefore, the OMR answer sheet of the writ petitioner has been found to be not fit for evaluation by the TNPSC.



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3. According to the learned Counsel appearing for the writ petitioner, when the question booklet number has been correctly written in numerals, just because there was some mistake at the time of shading the bubbles in the OMR sheet, the same should not be treated as significant or substantive error on the part of the candidate. As per the guidelines issued by the TNPSC for the previous examination, 5 marks have to be deducted for wrong shading of the question booklet number. Therefore, the said procedure ought to have been followed for the present examination also. He further contended that between the clauses in the notification as well as the hall ticket and the OMR sheet, there are inconsistencies relating to erroneous shading of the question booklet number and therefore, instructions which are in favour of the candidate should be taken into consideration and the OMR answer sheet should have been evaluated.

4. The learned Counsel appearing for the writ petitioner had relied upon the judgment of the Hon'ble Supreme Court in ***Vashist Narayan Kumar Vs. The State of Bihar and Others*** in ***Civil Appeal No.1 of 2024, dated 02.01.2024***, wherein the Hon'ble Supreme Court has held that when the error is trivial in nature which did not play any part in the selection process, the same



could be ignored and the candidate should be permitted to participate in the selection process. The learned Counsel appearing for the writ petitioner also relied upon another judgment of the Hon'ble Supreme Court in the case of ***Food Corporation of India Vs. Rimjhim*** reported in **(2019) 5 SCC 793** and contended that when the mistake is trivial in nature, it would not be appropriate to debar the candidate. Hence, he prayed for allowing the writ petition and issue a direction to TNPSC to evaluate the OMR answer sheet.

5.Per contra, the learned Standing Counsel appearing for the Tamil Nadu Public Service Commission had relied upon the general instructions issued to the candidates wherein it is mentioned that when there is an erroneous shading of the question booklet number, the same would attract the penalty of not fit for valuation. He further contended that the same clause is found in the hall ticket as well as in the instructions to the candidates found in the OMR sheet. Therefore, according to him, there is no inconsistency between anyone of the notifications issued by the TNPSC so as to construe the instructions in favour of the candidates. The learned Standing Counsel appearing for TNPSC relying upon the judgment of the Hon'ble Supreme Court in the case of ***State of Tamil Nadu and Others Vs. G.Hemalathaa and another*** reported in **(2020) 19 SCC 430** had contended that the instructions issued by the Tamil Nadu Public



Service Commission are mandatory in nature having the force of law and they have to be strictly complied with. Therefore, the request of the learned Counsel appearing for the writ petitioner, for taking a lenient view for erroneous shading of the question booklet number is not sustainable. Hence, he prayed for dismissal of the writ petition.

6.I have carefully considered the submission made on either side and perused the materials available on record.

7.A perusal of the paragraph No.4 of the affidavit reveals that at the time of shading the bubbles for marking the question booklet number, the petitioner has shaded the wrong bubbles. This fact is not in dispute. The question that arises for consideration is, when there is a mistake with regard to shading of the bubbles at the time of noting down the question booklet number whether the answer booklet can be found to be fit for valuation or it has to be rejected.

8.A perusal of the instructions issued by the TNPSC in their notification in clause No.5.1.13 dealing with invalidation of the answer sheet reveals that if more than one bubble/bubbles is shaded in space provided for bubbles of Question Booklet Number in each column, the answer sheet could be



invalidated. The same clause is repeated as clause No.10 of the hall ticket issued to the candidate concerned. A perusal of the instructions to the candidates in the OMR sheet reveals that the answer sheet would be invalidated, if the bubbles are shared erroneously.

9. Therefore, it is clear that the invalidation of the answer sheet of the writ petitioner is as per the clauses found in the notification, hall ticket and the instructions issued to the concerned candidate in the OMR sheet. In such circumstances, this Court is not inclined to interfere and to hold that the said error committed on the part of the candidate could be pardon and his answer sheet could be evaluated. The Court is constrained to take such a view in the judgment of the Hon'ble Supreme Court reported in **2020 19 SCC 430**, wherein the Hon'ble Supreme Court has categorically held that the instructions to the applicants of TNPSC, they are not directory, but mandatory, having the force of law and they have to be strictly complied with.

10. The learned Standing Counsel appearing for Tamil Nadu Public Service Commission has relied upon the order of the Hon'ble Division Bench of our High Court in W.P.No.30309 of 2023 batch cases, dated 31.10.2023, wherein the Hon'ble Division Bench had an occasion to consider a similar issue



and rendered findings that when there is an erroneous shading of question booklet number in the OMR answer sheet, the same has to be invalidated.

11. In such circumstances, this Court finds no merits in the writ petition. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

07.11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

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