



W.P.No.4680 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.4680 of 2025 &

W.M.P.No.5185 of 2025

S.Sakthivel

... Petitioner

-Versus-

1.State of Tamil Nadu

rep. by its Secretary,

Home, Prohibition and Excise Department,

Secretariat, Chennai.

2.The Director General of Police of Tamil Nadu,

Head of Police Force,

Tamil Nadu Police Headquarters,

Dr.Radhakrishnan Salai,

Mylapore, Chennai – 600 004.

3.Tamil Nadu Uniformed Services Recruitment Board,

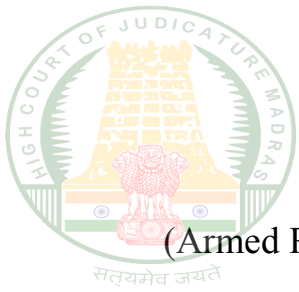
Rep. by its Member Secretary,

Old Commissioner of Police Office Campus,

Pantheon Road, Egmore, Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Mandamus directing the 3rd respondent to award marks in respect of question Nos.7, 24 & 91 in respect of Question Booklet series B, which was correctly answered by the petitioner herein and consequently direct the respondents to select and appoint the petitioner as Sub-Inspector of Police



W.P.No.4680 of 2025

(Armed Reserve) within a time stipulated by this Court.

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For Petitioner : *Mr.J.Ravikumar*
For Respondents : *Mr.P.Kumaresan,*
1 & 2 *Additional Advocate General*
Assisted by
Mrs.Vijaya Devi,
Government Advocate
For Respondent 3 : *Mrs.D.Sowmi Dattan*

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction against the third respondent, Tamil Nadu Uniformed Services Recruitment Board at Chennai to grant marks to the petitioner in respect of question Nos.7, 24 and 91 in respect of Question Booklet series B. The petitioner claims that the petitioner had given correct answers for the aforementioned questions and therefore, he claims that he should have been granted ½ mark for each question, which would increase the total marks of the petitioner by another 1 ½ marks.

2. In the affidavit filed in support of the writ petition, it had been stated by the petitioner that he is now serving as Grade I Traffic Police Constable in Traffic Investigation Wing at Adyar. It had been stated that a notification had

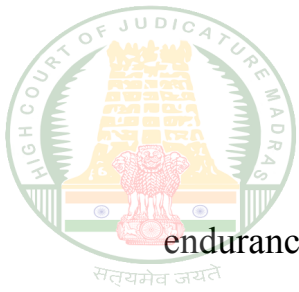


W.P.No.4680 of 2025

been issued by the third respondent in Notification No.1 of 2023 dated 05.05.2023 inviting online applications for the post of Sub-Inspector of Police including Taluk, Armed Reserve and Tamil Nadu Special Police. The commencement of the filing of online application was 01.06.2023 and the last date of submission of online application was 30.06.2023.

3. The selection process involved written exams in two parts, the first part being the Tamil language eligibility test and second part being the main written examination. This would be followed by certificate verification for the Police Departmental Quota. There would also be an endurance test and finally, there would a viva-voce. After the completion of the recruitment process, the selection list is drawn based on the total marks obtained in the main written examination and the viva voce for the department candidates. These candidates like the petitioner are exempted from physical efficiency test except endurance test. Thereafter, there will be a medical examination followed by the police verification.

4. The petitioner appeared for the preliminary and main examinations on 26.08.2023 and 27.08.2023 respectively. He claims that he had secured 71.5 marks out of 85 marks. The petitioner then participated in the physical



W.P.No.4680 of 2025

endurance test on 07.11.2023. He was then called upon to attend viva voce. He

claims that he had obtained 9.75 marks out of 10 marks in the viva voce, which was conducted on 08.01.2024. The petitioner claims that he had obtained 81.25 marks out of 100 marks.

5. The petitioner claims that he had raised objections by letter dated 29.09.2023 for the key answers published for the preliminary examination. After examining the objections raised by the various candidates, a final answer key was published by the third respondent in which there were certain amendments made to the initially published key answers. It was found that the answer key for the three questions, for which the petitioner had raised objections, were not corrected. Thereafter, the third respondent published the list of candidates, who had been provisionally selected and who had been undergone medical examination and the police verification. The petitioner was also provisionally selected. The petitioner then gave a representation on 29.09.2023 seeking additional marks relating to question Nos.7, 24 and 91 in the booklet categorised as B.

6. The petitioner claims that the answers he had given for those three questions alone are correct and the answers as projected by the respondents are



W.P.No.4680 of 2025

not correct. He therefore claims that his answer sheet should be revised and he

must be granted another 1 ½ marks for the said three questions, namely question Nos.7, 24 and 91 in the booklet series B. It is under those circumstances seeking revision of the answers, the present writ petition has been filed.

7. A counter affidavit has been filed by the third respondent wherein it had been stated that the petitioner had participated in the recruitment process and had obtained a total of 81.25 marks in both the written examination and in the viva voce. He had been selected for the post of Sub Inspector of Police in the category of Armed Reserve in accordance with the provisional selection list, which was published on 29.01.2024. The cut off mark was 81.25 for the men belonging to BC community like the petitioner herein. Thereafter, a series of writ petitions came to be filed in W.P.No.11855 of 2024 batch, and an order was passed on 21.06.2024, and consequent to such order, the third respondent revised the selection list of candidates at every stage of the selection process in accordance with the guidelines issued by the Hon'ble Supreme Court in ***Saurav Yadav v. State of Uttar Pradesh in Special Leave Petition (Civil) No.23223 of 2018*** and ***State of Tamil Nadu v. K.Shobana in Civil Appeal Nos.3745 – 3754 of 2020***.



W.P.No.4680 of 2025

WEB COPY 8. The revised final provisional list was published on 03.10.2024. The cut off mark for the men belonging to BC community was increased and revised to 81.50. The petitioner, having obtained 81.25 marks, was found ineligible to be brought in the Armed Reserve Category. Therefore, he was brought under the Tamil Nadu Special Police category in the final provisional selection list. It had been contended that the petitioner had then filed the present writ petition contending that the answers for question Nos.7, 24 and 91 in the booklet series B have to be revisited and the answers given by the petitioner are re-examined. According to the petitioner, his answers are correct and therefore, he must get an additional 1 ½ marks, which would increase his total marks from 81.25 to 82.75 and therefore, he would move upwards to the other category and not be retained in the Tamil Nadu Special Police category.

9. In the counter affidavit, a detailed explanation has been given with respect to the three questions contested by the petitioner. With respect to each of the three questions namely question Nos.7, 24 and 91 in the Booklet series B, the respondents have stated the opinion of the Committee and also the sources from which such opinion was given by the Committee. They had reiterated that the answers as projected by the Expert Committee alone are correct. They

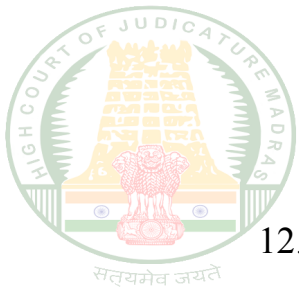


W.P.No.4680 of 2025

justified the answers given by the Expert Committee and stated that the petitioner cannot seek revision of his marks. The respondents have stated that the writ petition should be dismissed.

10. Heard the learned counsel for the petitioner and the learned counsel for the third respondent.

11. The only issue to be examined is the stand of the petitioner that he had correctly answered the three questions namely question Nos.7, 24 and 91 in the booklet series B in the preliminary examination for the post of Sub Inspector of Police. The petitioner is already serving as Grade-I, Traffic Police Constable and he had been permitted to participate in the recruitment process and he had written the preliminary and main examinations. He had also been selected as Sub Inspector of Police. Initially he was placed in the list for Sub Inspector of Police, Armed Reserve and later owing to a series of directions issued by this Court and placing their reliance on the guidelines given by the Hon'ble Supreme Court, the respondents revised the selection list and placed the petitioner in Sub Inspector of Police, Tamil Nadu Special Police.

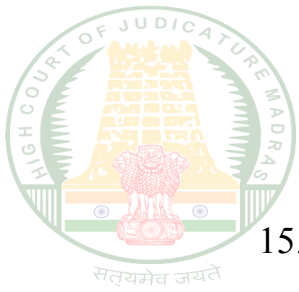


W.P.No.4680 of 2025

12. After the result had been declared, the petitioner claims that there should be a re-visitation of the answers given by the Expert Committee by comparing the same with the answers given by him with respect to the aforementioned three questions namely question Nos.7, 24 and 91 as projected in Booklet series B, which the petitioner had answered.

13. The scope of this court to convert itself as an expert over and above an Expert Committee had been examined by the Hon'ble Supreme Court. It must be placed on record that the judgments in this regard had not been placed either by the petitioner or on behalf of the third respondent.

14. In (2010) 8 SCC 372, *Basavaiah (Dr.) v. Dr.H.L.Ramesh and Others*, the Hon'ble Supreme Court had examined the interference by the High Court with the answers as projected by the Expert Committee. The Hon'ble Supreme Court had used the word “*impermissibility*” of such interference. The Hon'ble Supreme Court further stated that the court should show deference to the recommendations of the Expert Committee, particularly when no mala fide had been alleged against the experts constituting the selection committee.

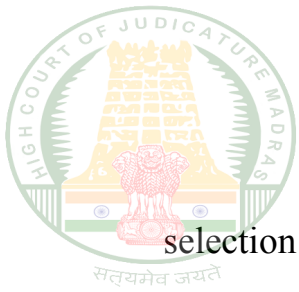


W.P.No.4680 of 2025

15. The opinion of the experts had been given in the counter affidavit and the petitioner had not chosen to file any reply alleging any mala fide on the part of the Expert Committee in this case. The petitioner only claims that the answers as projected by him alone are correct and the answers as projected by the Expert Committee are not correct. The petitioner relies on various reference materials to state that the answers given by him are correct. In the counter affidavit, the reference materials relied on by the Expert Committee have been stated. The petitioner had not filed any reply affidavit questioning the correctness of the reference materials as relied on by the Expert Committee. The learned counsel had also not advanced any arguments on that ground.

16. The learned counsel had only advanced arguments projecting the reference materials as instructed by the petitioner which according to the petitioner were the correct reference materials and contended that on that basis alone the answers should have been examined.

17. The Hon'ble Supreme Court, in **Basavaiah (Dr.)** case referred to *supra*, had examined the appointment of Readers in Sericulture in the year 1999 on the basis of the qualifications possessed by the appellants therein. The Hon'ble Supreme Court thereafter examined the notification under which the

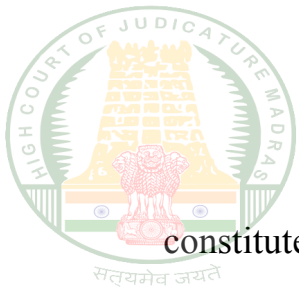


selection process was conducted. As in this case, an Expert Committee had

been constituted by the University. Thereafter, it had been stated that the Committee had scrutinised the qualification, experience and the works published by the candidates and had made recommendations in favour of their appointments. The Supreme Court finally stated as follows:

“21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.”

18. The Hon'ble Supreme Court had also examined an earlier case wherein judgment was rendered by a Constitution Bench of the Supreme Court, reported in ***AIR 1965 SC 491, The University of Mysore v. C.D.Govinda Rao***. Even the Constitution Bench unanimously held that normally the courts should be slow to interfere with the opinions expressed by the Experts, particularly when there is no allegation of mala fides against the Experts who had



W.P.No.4680 of 2025

constituted the Selection Board. Paragraph 22 of the Judgment is extracted

WEB hereunder:

“22. A similar controversy arose about 45 years ago regarding appointment of Anniah Gowda to the post of Research Reader in English in the Central College, Bangalore, in the case of The University of Mysore and Another v. C.D.Govinda Rao and Another, AIR 1965 SC 491, in which the Constitution Bench unanimously held that normally the Courts should be slow to interfere with the opinions expressed by the experts particularly in a case when there is no allegation of mala fides against the experts who had constituted the Selection Board. The court further observed that it would normally be wise and safe for the courts to leave the decisions of academic matters to the experts who are more familiar with the problems they face than the courts generally can be.”

19. The Hon'ble Supreme Court further placed reference to the another judgment of the Hon'ble Supreme Court reported in **(1979) 2 SCC 339, M.C.Gupta (Dr.) v. Dr.Arun Kumar Gupta** and had extracted paragraph No.7 of the said judgment which is extracted hereunder:

“7.When selection is made by the Commission aided and advised by experts having technical experience and high academic qualifications in the specialist field,



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W.P.No.4680 of 2025

probing teaching research experience in technical subjects, the Courts should be slow to interfere with the opinion expressed by experts unless there are allegations of mala fides against them. It would normally be prudent and safe for the Courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the Courts generally can be..."

20. The Hon'ble Supreme Court had further relied on the judgment reported in **(1980) 3 SCC 418, J.P.Kulshrestha (Dr.) v. Allahabad University**, wherein again it had been observed that the Court should not substitute its judgment for that of the academicians. Paragraph 17 of the said judgment is as follows:

"17. Rulings of this Court were cited before us to hammer home the point that the court should not substitute its judgment for that of academicians when the dispute relates to educational affairs. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

21. A further reference has been made to the judgment of the Hon'ble Supreme Court reported in **(1984) 4 SCC 27, Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar**



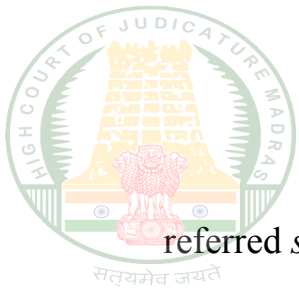
W.P.No.4680 of 2025

Sheth where again it had been observed that the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience. The relevant paragraph No.29 is as follows:

“29. ... As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.”

22. The Hon'ble Supreme Court further placed reliance on another judgment of the Hon'ble Supreme Court reported in **(1990) 2 SCC 746, Neelima Misra v. Harinder Kaur Paintal**, where again the same dictum had been laid down by the Hon'ble Supreme Court.

23. Further in **(1992) 2 SCC 220, Bhushan Uttam Khare v. B.J. Medical College**, the Hon'ble Supreme Court had placed reliance on the dictum laid down by the Constitution Bench judgment in **University of Mysore** case



W.P.No.4680 of 2025

referred *supra*.

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24. The Hon'ble Supreme Court had further placed reliance on further precedents judgments in paragraph Nos.30 to 37 which are as follows:

“30. In (1990) 1 SCC 305, *Dalpat Abashab Solunke & Others v. Dr. B.S.Mahajan & Others*, the court in somewhat similar matter observed thus:

"12. ...It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the



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W.P.No.4680 of 2025

Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction."

31. In (1994) 1 SCC 169, Chancellor & Another etc. v. Dr. Bijayananda Kar & Others, the court observed thus:

"9. This Court has repeatedly held that the decisions of the academic authorities should not ordinarily be interfered with by the courts. Whether a candidate fulfils the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consist of experts on the subjects relevant to the selection."

32. In (2000) 3 SCC 59, J & K State Board of Education v. Feyaz Ahmed Malik & Others, the court



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W.P.No.4680 of 2025

while stressing on the importance of the functions of the expert body observed that the expert body consisted of persons coming from different walks of life who were engaged in or interested in the field of education and had wide experience and were entrusted with the duty of maintaining higher standards of education. The decision of such an expert body should be given due weightage by courts.

*33. In (2001) 5 SCC 486, **Dental Council of India v. Subharti K.K.B. Charitable Trust**, the court reminded the High Courts that the court's jurisdiction to interfere with the discretion exercised by the expert body is extremely limited.*

*34. In (2001) 8 SCC 427, **Medical Council of India v. Sarang**, the court again reiterated the legal principle that the court should not normally interfere or interpret the rules and should instead leave the matter to the experts in the field.*

*35. In (2008) 14 SCC 306, **B.C.Mylarappa v. Dr.R.Venkatasubbaiah**, the court again reiterated legal principles and observed regarding importance of the recommendations made by the Expert Committees.*

*36. In (2008) 9 SCC 284, **Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University**, the court reminded*



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W.P.No.4680 of 2025

that it is not appropriate for the Supreme Court to sit in appeal over the opinion of the experts.

37. In (2009) 11 SCC 726, All India Council for Technical Education v. Surinder Kumar Dhawan, again the legal position has been reiterated that it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.”

25. Finally in paragraph No.38, the legal position had been reiterated,

The said paragraph is as follows:

“35. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.”

26. In paragraph No.39, the Hon'ble Supreme Court had frowned upon the High Court to have ignored the consistent legal position. Paragraph No.39 is as follows:



“39. In the impugned judgment, the High Court has ignored the consistent legal position. They were expected to abide by the discipline of the precedents of the courts. Consequently, we are constrained to set aside the impugned judgment of the Division Bench of the High Court and restore the judgment of the Single Judge of the High Court.”

27. The Hon'ble Supreme Court had stated that the High Courts have to abide by the discipline of the principles of the Courts. The precedents of the Courts very clearly and categorically stated that the High Court cannot substitute itself for an expert and when there is no mala fide alleged against the Committee constituted by Experts, their opinion must be upheld and no other opinion should be examined or stated by the court.

28. This position of law had again been examined by the Hon'ble Supreme Court in **(2018) 2 SCC 357, Ran Vijay Singh and Others v. State of Uttar Pradesh and Others**. The Hon'ble Supreme Court had examined the scope of judicial review in re-evaluation and examination of the correctness of the key answers. The principles required to be followed have been reiterated by the Hon'ble Supreme Court. Even in that particular case, an issue was raised about the correctness of the key answers as given by the Expert Committee. The Hon'ble Supreme Court had held as follows:

18. A complete hands-off or no-interference



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W.P.No.4680 of 2025

*approach was neither suggested in **Mukesh Thakur [(2010) 6 SCC 759]** nor has it been suggested in any other decision of this Court – the case law developed over the years admits of interference in the results of an examination but in rare and exceptional situations and to a very limited extent.*

*19. In **(1983) 4 SCC 309, Kanpur University v. Samir Gupta**, this Court took the view that*

“16. the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct.”

In other words, the onus is on the candidate to clearly demonstrate that the key answer is incorrect and that too without any inferential process or reasoning. The burden on the candidate is therefore rather heavy and the constitutional courts must be extremely cautious in entertaining a plea challenging the correctness of a key answer. To prevent such challenges, this Court recommended a few steps to be taken by the examination



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W.P.No.4680 of 2025

authorities and among them are: (i) Establishing a system of moderation; (ii) Avoid any ambiguity in the questions, including those that might be caused by translation; and (iii) Prompt decision be taken to exclude the suspect question and no marks be assigned to it.

20. (1984) 4 SCC 27, Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh BhupeshKumar Sheth is perhaps the leading case on the subject and concerned itself with Regulation 104 of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 which reads:

“104. Verification of marks obtained by a candidate in a subject.—(1) Any candidate who has appeared at the Higher Secondary Certificate examination may apply to the Divisional Secretary for verification of marks in any particular subject. The verification will be restricted to checking whether all the answers have been examined and that there has been no mistake in the totalling of marks for each question in that subject and transferring marks correctly on the first cover page of the answer book and whether the supplements attached to the answer book mentioned by the candidate



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W.P.No.4680 of 2025

are intact. No revaluation of the answer book or supplements shall be done.

(2) Such an application must be made by the candidate through the head of the junior college which presented him for the examination, within two weeks of the declaration of the examination results and must be accompanied by a fee of Rs 10 for each subject.

(3) No candidate shall claim, or be entitled to revaluation of his answers or disclosure or inspection of the answer books or other documents as these are treated by the Divisional Board as most confidential.”

21. The question before this Court was: Whether, under law, a candidate has a right to demand an inspection, verification and revaluation of answer books and whether the statutory regulations framed by the Maharashtra State Board of Secondary and Higher Secondary Education governing the subject insofar as they categorically state that there shall be no such right can be said to be ultra vires, unreasonable and void.



22. *This Court noted that the Bombay High Court, while dealing with a batch of 39 writ petitions, divided them into two groups: (i) Cases where a right of inspection of the answer sheets was claimed; (ii) Cases where a right of inspection and re-evaluation of answer sheets was claimed. With regard to the first group, the High Court held the above Regulation 104(3) as unreasonable and void and directed the concerned Board to allow inspection of the answer sheets. With regard to the second group of cases, it was held that the above Regulation 104(1) was void, illegal and manifestly unreasonable and therefore directed that the facility of re- evaluation should be allowed to those examinees who had applied for it.*

23. *In appeal against the decision of the High Court, it was held by this Court that the principles of natural justice are not applicable in such cases. It was held that:*

“12. ... The principles of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such absurd lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performances



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W.P.No.4680 of 2025

or to verify the correctness of the evaluation made by the examiners by themselves conducting an inspection of the answer books and determining whether there has been a proper and fair valuation of the answers by the examiners.”

24. On the validity of the Regulations, this Court held that they were not illegal or unreasonable or ultra vires the rule making power conferred by statute. It was then said:

“16. ... The Court cannot sit in judgment over the wisdom of the policy evolved by the Legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act. The Legislature and its delegate are the sole



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W.P.No.4680 of 2025

repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the Court unless the particular provision impugned before it can be said to suffer from any legal infirmity, in the sense of its being wholly beyond the scope of the regulation-making power or its being inconsistent with any of the provisions of the parent enactment or in violation of any of the limitations imposed by the Constitution. None of these vitiating factors are shown to exist in the present case.....”.

It was also noted by this Court that:

“22. ... the High Court has ignored the cardinal principle that it is not within the legitimate domain of the Court to determine whether the purpose of a statute can be served better by adopting any policy different from what has been laid down by the Legislature or its delegate and to strike down as unreasonable a bye-law (assuming for the purpose of discussion that the impugned regulation is a bye-law) merely on the ground that the policy enunciated therein does not meet with the approval of the Court in regard to its



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W.P.No.4680 of 2025

efficaciousness for implementation of the object and purposes of the Act.”

25. Upholding the validity of Regulation 104, this Court then proceeded on the basis of the plain and simple language of the Regulation to hold that

“20. ... The right of verification conferred by clause (1) is subject to the limitation contained in the same clause that no revaluation of the answer books or supplements shall be done and the further restriction imposed by clause (3), prohibiting disclosure or inspection of the answer books.”

This Court then concluded the discussion by observing:

“29. ... As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this



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W.P.No.4680 of 2025

nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”

26. In (2004) 6 SCC 714, **Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission**, the question under consideration was whether the High Court was right in directing re-evaluation of the answer book of a candidate in the absence of any provision entitling the candidate to ask for re-evaluation. This Court noted that there was no provision in the concerned Rules for re-evaluation but only a provision for scrutiny of the answer book

“wherein the answer-books are seen for the purpose of checking whether all the



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W.P.No.4680 of 2025

answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer-book.”

*This Court reiterated the conclusion in (1984) 4 SCC 27, **Paritosh Bhupeshkumar Sheth** that*

“7. ... in the absence of a specific provision conferring a right upon an examinee to have his answer-books re- evaluated, no such direction can be issued.”

*27. The principle laid down by this Court in **Paritosh Bhupeshkumar Sheth** was affirmed in **W.B. Council of Higher Secondary Education v. Ayan Das** and it was reiterated that there must be finality attached to the result of a public examination and in the absence of a statutory provision re-evaluation of answer scripts cannot be permitted and that it could be done only in exceptional cases and as a rarity. Reference was also made to (2004) 6 SCC 714, **Pramod Kumar Srivastava v. Bihar Public Service Commission**, (2004) 13 SCC 383, **Board of Secondary Education v. Pravas Ranjan Panda** and (2007) 1 SCC 603, **Board of Secondary Education v. D.Suvankar**.*



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W.P.No.4680 of 2025

28. *The facts in (2014) 14 SCC 523, Central Board of Secondary Education v. Khushboo Shrivastava* are rather interesting. The respondent was a candidate in the All India Pre-Medical/Pre-Dental Entrance Examination, 2007 conducted by the Central Board of Secondary Education (for short “the CBSE”). Soon after the results of the examination were declared, she applied for re-evaluation of her answer sheets. The CBSE declined her request since there was no provision for this. She then filed a writ petition in the Patna High Court and the learned Single Judge called for her answer sheets and on a perusal thereof and on comparing her answers with the model or key answers concluded that she deserved an additional two marks. The view of the learned Single Judge was upheld by the Division Bench of the High Court.

29. In appeal, this Court in **(2014) 14 SCC 523, Khushboo Shrivastava case**, set aside the decision of the High Court and reiterating the view already expressed by this Court from time to time and allowing the appeal of the CBSE it was held:

“9. We find that a three-Judge Bench of this Court in **(2004) 6 SCC 714, Pramod Kumar Srivastava v. Bihar Public Service Commission** has clearly held relying on **(1984)**



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W.P.No.4680 of 2025

4 SCC 27, Maharashtra State Board of Secondary Education v. Paritosh Bhupeshkumar Sheth that in the absence of any provision for the re-evaluation of answer books in the relevant rules, no candidate in an examination has any right to claim or ask for re-evaluation of his marks. The decision in **(2004) 6 SCC 714, Pramod Kumar Srivastava v. Bihar Public Service Commission** was followed by another three-Judge Bench of this Court in **(2004) 13 SCC 383, Board of Secondary Education v. Pravas Ranjan Panda** in which the direction of the High Court for re- evaluation of answer books of all the examinees securing 90% or above marks was held to be unsustainable in law because the regulations of the Board of Secondary Education, Orissa, which conducted the examination, did not make any provision for re- evaluation of answer books in the rules.

10. In the present case, the bye-laws of the All India Pre- Medical/Pre-Dental Entrance Examination, 2007 conducted by the CBSE did not provide for re-examination or re-evaluation of answer sheets. Hence, the appellants could not have allowed such re-



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W.P.No.4680 of 2025

examination or re-evaluation on the representation of Respondent 1 and accordingly rejected the representation of Respondent 1 for re-examination/re-evaluation of her answer sheets.....

11. In our considered opinion, neither the learned Single Judge nor the Division Bench of the High Court could have substituted his/its own views for that of the examiners and awarded two additional marks to Respondent 1 for the two answers in exercise of powers of judicial review under Article 226 of the Constitution as these are purely academic matters.”

29. Finally in paragraph Nos.30.3, 30.4 and 30.5, the Hon'ble Supreme Court held as follows:

“30.3. The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics;

30.4. The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”



W.P.No.4680 of 2025

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30. An examination of the aforementioned position of law as stated by the Hon'ble Supreme Court would show that the Court should presume the correctness of the key answers and proceed on that presumption. It must also be kept in mind that the Court must understand that it has no expertise in the academic matters and it would be prudent that such matters are best left to the academicians. It had been further held that in the event of a doubt, the benefit should go to the Examination Authority rather than to the candidate. Further in paragraph No.31, the Hon'ble Supreme Court had held as follows:

“31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude



W.P.No.4680 of 2025

the suspect or offending question.”

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31. It is thus seen that the Hon'ble Supreme Court had also reiterated that sympathy or compassion does not play any role in any matter of directing or not directing re-evaluation of an answer sheet. It had been very categorically stated that despite several decisions of the Hon'ble Supreme Court, there are interferences by the Courts in the result of examination and such interference had been declared as unwarranted by the Supreme Court. It had been held as follows in paragraph 32:

“32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the



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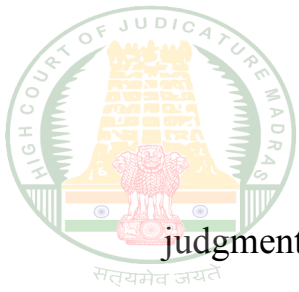
W.P.No.4680 of 2025

examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”

32. The Hon'ble Supreme Court had stated that such a re-scrutiny of the examination would put the Examination Authority in unenviable position pf coming under scrutiny and not the candidates.

33. The position of law is clear. It cannot be interpreted otherwise.

34. The learned counsel for the petitioner however placed reliance on the



W.P.No.4680 of 2025

judgment of the Supreme Court reported in ***AIR 1983 SC 1230, Kanpur University through Vice Chancellor v. Samir Gupta and Others***. This

judgment had been referred to by the Hon'ble Supreme Court in ***(2018) 2 SCC 357, Ran Vijay Singh and Others v. State of Uttar Pradesh and Others*** and after examining the dictum laid therein and also the dictum in a series of other judgments of the Hon'ble Supreme Court, had finally reduced the proposition of law and held that the Court should presume the correctness of the key answers as projected by the Expert Committee and proceed on that presumption alone.

35. The learned counsel for the petitioner placed reliance on the Division Bench Judgment of this Court reported in ***(2011) 256 MLJ 653, Director, Department of Government Examination and Others v. R.Neethushanmugi***. The learned counsel drew specific reference to paragraph No. 18 and 19 which are as follows:

“18. Having regard to our finding, we are of the considered view that the directions of the Division Bench to award full five marks to all the candidates, who have filed writ petitions, should be understood only to award proportionate marks depending upon the nature of answer given by each of the candidates, who have filed writ petitions, as directed by the learned single Judge in paragraph No. 40 of the order in the writ petitions.



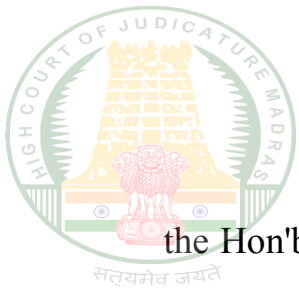
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W.P.No.4680 of 2025

19. *With regard to the submission of the learned Additional Advocate General that when there is a specific provision for application for revaluation, some of the candidates who have not even applied for revaluation cannot be given the benefit of revaluation on the orders of the Court directly. In our opinion, such a contention cannot be accepted. When most of the candidates who have approached this Court had filed applications for revaluation and had been given the said benefit of revaluation, similar benefit should also be extended to the other candidates, as this Court had directed such revaluation only on the ground that the key answer was wrong and for the fault of the official Respondents, the candidates should not be penalised. That apart, the order directing revaluation was not set aside by the Division Bench, but only the same was modified to the extent of directing the grant of full five marks, instead of the marks based on the revaluation. At this stage, the State cannot be allowed to raise this point in the review applications. The direction for revaluation in respect of all the candidates, even for some of the candidates who have not applied for revaluation, is granted only on the peculiar facts and circumstances of this case and it shall not be quoted as a precedent in any other case.*

36. It must be stated with due respect that the judgment as laid down by



W.P.No.4680 of 2025

the Hon'ble Supreme Court except for the judgment in **(2009) 11 SCC 726, All**

WEB India Council for Technical Education v. Surinder Kumar Dhawan, wherein

again it had been stated that the Court should not substitute its conclusion for the view of the experts, had not been referred. The Division Bench in the aforementioned paragraphs had stated that the directions to grant full 5 marks to all the candidates who had filed the writ petition should be understood to have been granted only owing to the peculiar facts of the case. The dictum laid down that there must be a presumption that the answers as provided by the respondents are correct had not been examined by the Division Bench in the judgment referred *supra*.

37. The Hon'ble Supreme Court had referred to a catena of judgments commencing with the Constitution Bench Judgment of the year 1965 and moving further down and had categorically held that the answers as projected by the Expert Committee alone should be presumed to be correct.

38. Though arguments were advanced by the learned counsel to project that the answers as given by the petitioner are correct, it must also be stated that the petitioner has not taken this ground at the initial stage. He had been initially selected to the post of Sub Inspector of Police, Armed Reserve. He was quite



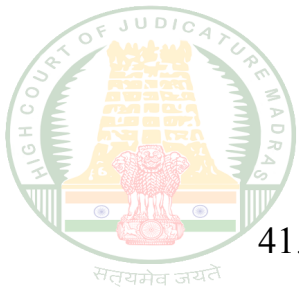
W.P.No.4680 of 2025

happy with such selection. Thereafter owing to the directions of the Hon'ble

Supreme Court and the guidelines laid therein, the respondents have revised the cut off mark for men belonging to BC community and the petitioner found himself selected as Sub Inspector of Police but in Tamil Nadu Special Police. It is only at that stage, he had raised these objections.

39. It is clear that the petitioner had waited as fence sitter to see where he would be posted and thereafter had raised his objections. These objections are untenable and cannot be appreciated. Though the learned counsel had advanced arguments placing reliance on a series of reference materials, admittedly, no arguments had been advanced that the reference materials as projected by the Expert Committee are wrong. Those reference materials had been very clearly and categorically given in the counter affidavit. No reply affidavit has been filed by the petitioner challenging those reference materials.

40. When there are two possible answers, the Hon'ble Supreme Court had very clearly stated that the answer key as projected by the Expert Committee alone must be taken to be correct. The Court has to give due deference to the dictum laid down by the Hon'ble Supreme Court.



W.P.No.4680 of 2025

41. The petitioner is already in uniformed service. He had now applied and has been selected to the post of Sub Inspector of Police. If he is sincere in his duty and has respect for the uniform which he wears, and the rank which he adorns, he must discharge his duty irrespective of the nature of the work assigned to him.

42. Even at the entrance stage, the petitioner cannot claim as a right to be considered in this particular category or that particular category. If he had grievances, the best option for him is to resign the post and walk away and engage himself in any other avocation. He cannot enter into a system and find faults with the system at the entry level. It is not becoming of a uniformed personnel to raise this issue at this late stage and claim that he should be given priority whatever be the costs. When he had obtained 81.25 marks which was exactly just sufficient to be considered for the post of Sub Inspector of Police, Armed Reserve, he had kept quite. He had not raised objections about these three questions specifically. He had not claimed that marks should have been given to him for those three questions. Later under the guidelines issued by the Hon'ble Supreme Court and the directions of this Court, when the respondents had revisited the selection list and had placed the petitioner in Sub Inspector of Police, Tamil Nadu Special Police, the petitioner had raised these objections



W.P.No.4680 of 2025

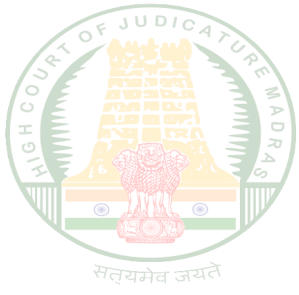
and had filed the present writ petition.

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43. The attitude of the petitioner is unbecoming of a Police personnel. If this the attitude even before entering the service as Sub Inspector Police, it cannot be visualised as to what attitude he would develop during the course of his service in future.

44. I am not inclined to concur with any of the contentions raised by the learned counsel for the petitioner. I am not inclined to examine whether the answers projected by the petitioner are correct. I am inclined to follow the dictum laid down by the Hon'ble Supreme Court that the answers projected by the Expert Committee are correct and must be presumed to be correct and the court should proceed on such presumption made. To reiterate, the petitioner has not alleged any mala fide on the part of the Expert Committee. No reply affidavit has been filed on that line. No arguments have been advanced raising such a ground.

45. The writ petition deserves to be dismissed. The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.



W.P.No.4680 of 2025

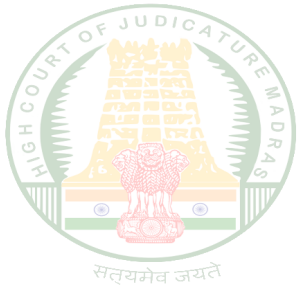
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05.03.2025

Index : Yes
Speaking order
Neutral Citation : Yes

To

- 1.The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
- 2.The Director General of Police of Tamil Nadu,
Head of Police Force,
Tamil Nadu Police Headquarters,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
- 3.Tamil Nadu Uniformed Services Recruitment Board,
Rep. by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai – 600 008.



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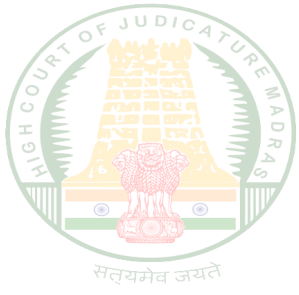


W.P.No.4680 of 2025

C.V.KARTHIKEYAN, J.

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W.P.No.4680 of 2025



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W.P.No.4680 of 2025

05.03.2025