

W.P.(MD).No.18265 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.07.2023

PRONOUNCED ON : 27.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.18265 of 2020

M.Muthukumar

... Petitioner

Vs.

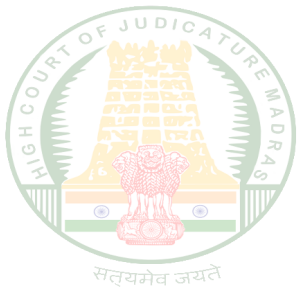
1.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road,
V.O.C Nagar, Park Town,
Chennai – 600 003.

2.The Joint Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road,
V.O.C Nagar, Park Town,
Chennai – 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in its letter No.430/DTD-D1/2020, dated 28.10.2020 and quash the same as illegal and consequently direct the respondents to re-evaluate the petitioner's answer book in Test Code No.064 – Local Fund Audit Departmental Test – Commercial Book keeping (without Books) within a period that may be stipulated by this Court.

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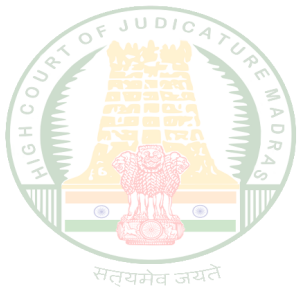
For Petitioner : Mr.M.E.Ilango
For Respondents : Mr.J.Anandha Kumar
Standing Counsel

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent, dated 28.10.2020 and quash the same and consequently direct the respondents to re-evaluate the petitioner's answer book in Test Code No.064 – Local Fund Audit Departmental Test – Commercial Book keeping (without Books) within a period stipulated by this Court.

2.The learned counsel appearing for the petitioner took me through each and every contention putforth before this Court in his affidavit.

3.Per contra, the learned Standing Counsel appearing for the respondents reiterated every defence which has been raised in the counter-affidavit.



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4. Heard Mr.M.E.Ilango, learned counsel appearing for the petitioner and Mr.J.Anandha Kumar, learned Standing Counsel appearing for the respondents and anxiously perused the entire materials available on record.

5. The petitioner was appointed as a Assistant Inspector in the State Government Audit Department, Thoothukudi in the year 2018. The Government introduced the scheme for sanctioning one advance increment to the subordinate officers. Any officer passing the four tests in the departmental examination conducted by the respondents before the completion of the probation period would be eligible to get one advance increment. The petitioner appeared for the departmental exam conducted in December, 2018 and passed three out of four tests. Hence, he appeared in the departmental exam conducted in December, 2019 and had attended the test 064 – Local Fund Audit Departmental Test – Commercial Book keeping (without books) again. However, the petitioner again failed in the said examination by getting 16 marks. The minimum mark to pass the above test is 18 and the petitioner lost the game by just two marks. Hence, he requested the Public Information Officer, TNPSC to provide

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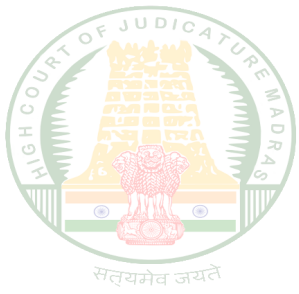
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him with a copy of his answer book under the Right to Information Act, 2005 on 18.07.2020. The petitioner received a copy of his answer book from the respondent on 07.10.2020.

6. According to the petitioner, though he had written the examination by giving correct answers, the same was not evaluated properly and most of the answers were given less marks. Hence, he made a detailed representation on 14.10.2020 to the second respondent seeking to re-evaluate his answer book as per Clause 23 of the Revised instructions to candidates, who appeared for departmental examinations, dated 01.10.2019 issued by the first respondent. However, the said representation was negated by the second respondent stating that the marks would be awarded only for those answers which are fully correct or if marks are not awarded inadvertently for a correct answer or if an answer is not corrected at all. Challenging the same, the petitioner has filed this Writ Petition.

7. Clause 23 of the revised instructions to candidates appearing for departmental examinations is extracted as follows:-



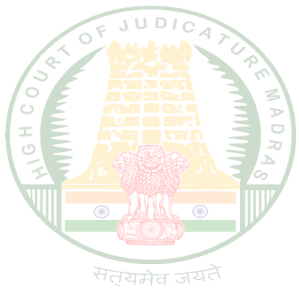
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"23.Requests from candidates for furnishing the cause of failure in the test or for revaluation of their answer book will not be complied with. However the commission reserves to itself the right to get any answer book revalued if in its opinion there are sufficient and valid grounds to do so."

8.The revised instructions mandates that request for re-evaluation of answer book would not be complied with and such an exercise could be done only if the commission in his opinion considers that there are sufficient and valid grounds to do so and there cannot be a vested right on any candidate to seek re-evaluation of the answer book as a matter of right. The departmental test is a combined pattern of objective and descriptive types. The departmental test written by the petitioner comprises two types of examination which were conducted by the Commission, ie., both the objective and descriptive type. As per the approved key answers for descriptive type questions more than 201 candidates passed out the test code 064 and they have not objected to any of the approved key answers, especially to the question Nos.5, 7, 8, 9 and 10, which is disputed by the petitioner.



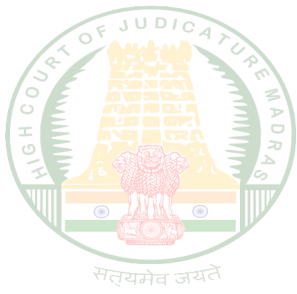
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9.It is a settled proposition of law that when instruction for a particular examination has been notified that has to be strictly complied with and this Court cannot in exercise of its jurisdiction under Article 226 of the Constitution of India modify or relax the terms and conditions of the instructions in an examination notification of the Tamil Nadu Public Service Commission. The instructions given to the candidates, who are writing the departmental examination in Clause 23 are strictly prohibited from seeking re-evaluation of answer books and it has been clarified that it is only to the discretion of the Commission such revaluation could be made. This Court is of the considered view that no lenient view can be taken in cases of mandatory instructions as far as examinations conducted by the Tamil Nadu Public Service Commission.

10.The Hon'ble Apex Court in the case of ***State of Tamil Nadu and others Vs. G.Hemalatha and another (Civil Appeal No. 6669 of 2019, dated 28.08.2019)*** has held that the conditions of instruction is of paramount importance and the High Court in exercise of Article 226 of the Constitution of India cannot modify or relax the instructions issued by the Commission.

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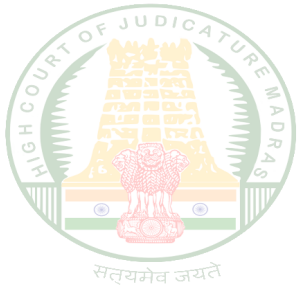
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11.In view of the said observation made by the Hon'ble Apex Court, this Court is of the considered view that if the request of the petitioner seeking revaluation of his answer book is permitted by this Court, that would open a Pandora box for many other candidates endlessly and that would frustrate the very purpose of conducting departmental examination and such an exercise cannot be directed, that too, after more than a period of two years from the date of conduct of the said examination and this Court is not inclined to interfere with the impugned order, dated 28.10.2020 passed by the second respondent. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

27.07.2023

NCC : Yes
Index : Yes
Internet : Yes
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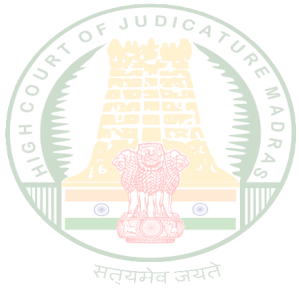


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To

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L.VICTORIA GOWRI, J.

ps

Pre-Delivery Order made in
W.P.(MD)No.18265 of 2020

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