

W.P.(MD)Nos.11676 & 11677 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.08.2023

PRONOUNCED ON : 09.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.11676 & 11677 of 2023

and

**W.M.P(MD)Nos.10137, 10142, 10144 & 10147, 10149, 10150,
10151 & 10153 of 2023**

1.W.P(MD)No.11676 of 2023:-

R.Lakshmanakumar

... Petitioner

Vs.

1.The Secretary,
Human Resources Management Department,
Government of Tamil Nadu,
Secretariat,
St. George Fort,
Chennai – 600 009.

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

3.The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat,
St. George Fort,
Chennai – 600 009.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent pertaining to the mains exam candidates details published on 28.04.2023 by the second respondent for the posts included in combined Civil Services Examination – I (Group – I Services) – 2022 for Notification No.16 of 2022 dated 21.07.2022 and quash the same as illegal and direct the second respondent to allow the petitioner to participate the mains written examination will be held from 10.08.2023 to 13.08.2023 and also direct the first respondent to frame proper Rules / GO for TNPSC Expert Committee within the stipulated period fixed by this Court.

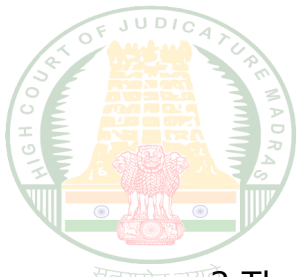
For Petitioner	: Mr.G.Sakthi Rao
For RR 1 & 2	: Mr.N.Ramesh Arumugam Government Advocate
For R – 3	: Mr.J.Anand Kumar Standing Counsel

2.W.P(MD)No.11677 of 2023:-

K.Selva Rama Rathnam ... Petitioner

Vs.

1.The Secretary,
Human Resources Management Department,
Government of Tamil Nadu,
Secretariat,
St. George Fort,
Chennai – 600 009.



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2.The Secretary,
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For Petitioner	: Mr.G.Sakthi Rao
For RR 1 & 2	: Mr.N.Ramesh Arumugam Government Advocate
For R – 3	: Mr.J.Anand Kumar Standing Counsel



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COMMON ORDER

These Writ Petitions have been filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the second respondent pertaining to the Mains exam candidates details published on 28.04.2023 for the posts included in combined Civil Services Examination – I (Group – I Services) – 2022 for Notification No.16 of 2022 dated 21.07.2022 and directing the second respondent to allow the petitioners to participate the Mains written examination which will be held from 10.08.2023 to 13.08.2023 and also directing the first respondent to frame proper Rules / GO for TNPSC Expert Committee within the stipulated period fixed by this Court.

2.Heard Mr.G.Sakthi Rao, learned counsel appearing for the petitioners, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 1 and 3 and Mr.J.Anand Kumar, learned Standing Counsel appearing for the second respondent and perused the entire materials available on record.



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3.The second respondent issued Notification No.16 of 2022, dated 21.07.2022 calling for the applications for posts included in the combined Civil Services Examination – I (Group – I Services) 2022 for the vacancy of 92 posts. The petitioners belong to Backward Community and they have done schooling from 1st Standard to 12th Standard in Tamil medium. The petitioner/R.Lakshmanakumar in W.P(MD)No.11676 of 2023 has completed Bachelor of Arts at Manonmaniam Sundaranar University in the year 2016 – 2019 through Tamil medium and the petitioner/K.Selva Rama Rathnam in W.P(MD)No.11677 of 2023 completed Bachelor of Engineering (Electronics Instrumentation Engineering) at Anna University in the year 2006 – 2010 and he has completed Master of Technology (M.Tech). The petitioners made applications for the posts notified in Notification No.16 of 2022 by the second respondent. The applications of the petitioners were accepted by the second respondent and Hall tickets were issued and register number of the petitioners are Register Nos.2201003293 and 0101052097 respectively. The Preliminary exam for the said Group – I Services was conducted on 19.11.2022. TNPSC Group – I Exam has three stages, namely Preliminary Exam, Mains written exam – Descriptive type and finally oral test. On the basis of the top cut-off marks obtained by the candidates, the second

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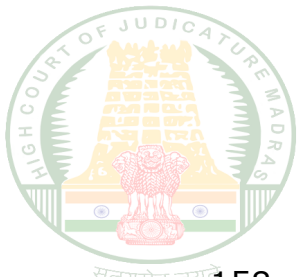
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respondent permits the candidates to participate in the next process as per the Notification which has been notified for the total vacancy of 92 posts. For Group – I examination, the second respondent allowed candidates at the ratio of 1:20.

4. On 28.04.2023, Preliminary exam results were declared by the second respondent, in which the petitioners were not selected. All those who were permitted to write Group – I Mains examination were requested to upload their certificates through the E-seva centre run by TNCTV from 08.05.2023 to 16.05.2023 for the purpose of issuance of hall ticket to participate in the Mains exam which are scheduled to be held at Chennai Exam Centre from 10.08.2023 to 13.08.2023. On 28.11.2022, the second respondent published the tentative answer key for the preliminary examination question papers in TNPSC website. The second respondent gave the option to make objections within a period of 7 days time for the tentative answer key published by the second respondent in TNPSC website and online option was provided by the second respondent. Exercising the said option, on 05.12.2023, the petitioner/R.Lakshmanakumar in W.P(MD)No.11676 of 2023, submitted his objection to 19 questions, namely, 1, 5, 6, 10, 33, 44, 52, 74, 81, 93, 104, 109, 119, 147, 151,

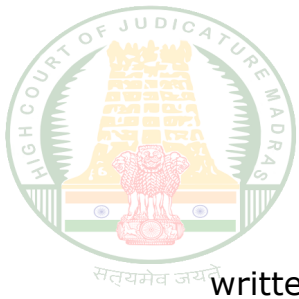
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158, 166, 185 and 191 and the petitioner/K.Selva Rama Rathnam in W.P(MD)No.11677 of 2023 submitted his objections to 16 questions, namely 1, 3, 7, 33, 69, 81, 92, 104, 109, 117, 119, 128, 136, 166, 168 and 197. Following which, the second respondent issued proof of tracker reference number for each and every question. However, the petitioners were not able to download the same, because the same were displayed only through pop up messages. At this point of time, on 28.04.2023, the Preliminary exam results were declared by the second respondent. Two candidates belonging to the same community of the petitioners got selected and they have scored 190 and 203 marks respectively. As per tentative key, as calculated by the petitioners, they scored 186 and 186 marks respectively. In case, if they are able to score marks for 19 and 16 objected questions respectively, their score will improve to 216 and 210 respectively, giving them opportunity to be selected for appearing in the main examination. Without replying to the objections raised by the petitioners, the second respondent published Preliminary examination results on 28.04.2023. Group I examinations are called for once in three years and hence, there would not be any notification for the next three years. Hence, the petitioners have filed these Writ Petitions challenging the list of registered number of candidates who have been provisionally admitted to the Mains

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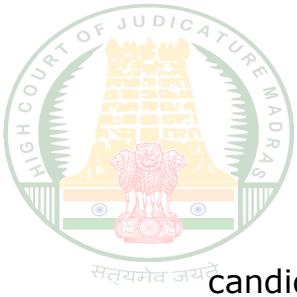
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written examination for the post included in combined Civil Services Examination-I (Group – 1 Services), dated 28.04.2023 by the second respondent.

5.The learned Standing Counsel appearing for the second respondent has filed counter-affidavit in both the Writ Petitions and submitted that the Commission invited the application from the eligible candidates for selection of appointment by direct recruitment to the posts included in combined Civil Services Examination – I (Group – I Services) to fill 95 vacancies vide its Notification No.16 of 2022, dated 21.07.2022 and 02.02.2023. The mode of selection will be made in three successive stages, namely Preliminary Examination, Mains Written Examination and oral test in the form of interview. The Preliminary examination was held on 19.11.2022 forenoon. Based on the marks obtained by the candidates in the said Preliminary examination, rule of reservation of appointments, distribution of vacancies and conditions stipulated in paragraph 10 of the Notification, 2162 candidates have been admitted provisionally to the Mains written examination, which is scheduled to be held from 10.08.2023 to 13.08.2023. The number of applicants to be admitted to the Mains written examination will be 20 times the number of vacancies. The

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candidates, who attended the Preliminary examination, were put on notice that the tentative answer keys will be hosted in the Commission's website within six working days from the date of conduct of the examination. Promptly, the tentative answer keys were hosted in the Commission's website on 28.11.2022. The purpose of hosting the tentative keys and inviting objections from the candidates along with supporting materials is only for the purpose of ensuring transparency and accountability in the selection process. Hence, if there is any error in framing of the questions or in the options given in the tentative key hosted, the candidates are very well entitled to correct the same by submitting representations along with proper evidence within the time mandated by the second respondent. After hosting tentative keys in this case on 28.11.2022, the second respondent received 5917 representations from the candidates pertaining to 111 different questions and all those representations were placed before the Expert Committee for finalization. The second respondent Commission constituted an Expert Committee consisting of three experts in the cadre of Professor / Associate Professor / Assistant Professor with atleast 15 years of experience in each of 13 subjects in respect of which the questions were asked in the Preliminary examination. The Expert Committee had sittings between 15th

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February and 06th April, 2023. During the sittings, the Expert Committee thoroughly analyzed the questions and tentative answer keys along with representations of the candidates with their reference and carefully reasoned the same and minuted their discussions. After elaborate consideration, the Expert Committee submitted its report with the final key arrived at by consensus.

6.From the said exercise, the following was the outcome for questions mentioned by the petitioner/R.Lakshmanakumar in W.P(MD)No.11676 of 2023:-

“(a) For 4 questions, namely, questions Nos. 5, 74, 158 and 185 all the options were found to have been either wrong / questions were wrong.

(b) For 1 question, namely question No.52, more than one options were correct. The questions framed and the options given were found to be correct.

(c) For 4 questions, namely question Nos.33, 44, 104 and 191 tentative answer keys alone were changed by the expert committee with the new answer key, as the questions framed and the options given were found to be correct.



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(d) For 11 questions, namely question Nos.1, 6, 10, 81, 93, 109, 119, 144, 147, 151 and 161 the tentative keys are the final keys also. The questions framed and answers given are found to be correct.”

7.Further, based on the recommendation of the Expert Committee and as per the established procedure it was decided to award marks to all the candidates who have attempted the question, including for those who have shaded 'E' option, in respect of four questions mentioned in para 6 (a) stated supra; it was also decided to award marks to all the candidates who have shaded either of the options arrived by the Expert Committee in respect of one question mentioned in para 6(b) stated supra and further, it was decided to award marks only to those candidates whose key tallied with the final key arrived by the Expert Committee, in respect of four questions mentioned in para 6(c) stated supra.

8.From the said exercise, the following was the outcome for questions mentioned by the petitioner/K.Selva Rama Rathnam in W.P(MD)No.11677 of 2023:-

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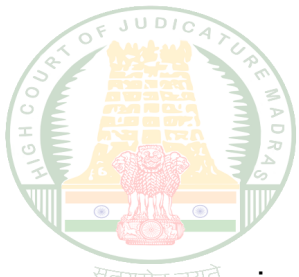
“(a) For 1 question, namely, questions No.92 all the options were found to have been either wrong / questions were wrong.

(b) For 2 questions, namely question Nos.69 and 197, more than one options were correct. The questions framed and the options given were found to be correct.

(c) For 3 questions, namely question Nos.33, 104 and 117 tentative answer keys alone were changed by the expert committee with the new answer key, as the questions framed and the options given were found to be correct.

(d) For 11 questions, namely question Nos.1, 3, 6, 7, 81, 109, 119, 128, 136, 166 and 168 the tentative keys are the final keys also. The questions framed and answers given are found to be correct.”

9.Further, based on the recommendation of the Expert Committee and as per the established procedure it was decided to award marks to all the candidates who have attempted the question, including for those who have shaded 'E' option, in respect of 1 question mentioned in para 8 (a) stated supra; it was also decided to award marks to all the candidates who have shaded either of the options



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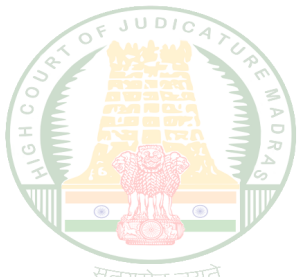
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arrived by the Expert Committee in respect of two questions mentioned in para 8(b) stated supra and further, it was decided to award marks only to those candidates whose key tallied with the final key arrived by the Expert Committee, in respect of three questions mentioned in para 8(c) stated supra.

10. On that basis, the second respondent Commission began its evaluation of the Preliminary Examination papers and the results were finally declared on 28.04.2023.

11. These Writ Petitions have been filed alleging that the representations of the petitioners, during the challenge period raising objections on certain questions, were not addressed and instead the second respondent Commission is proceeding with its selection process. However, pursuant to the recommendation of the Expert Committee, the petitioner/R.Lakshmanakumar in W.P(MD)No.11676 of 2023 was awarded marks for 6 out of 20 questions pointed out by him in his representation and the petitioner/K.Selva Rama Rathnam in W.P(MD)No.11677 of 2023 was awarded with 5 marks out of 17 questions pointed out by him in his representation. Thus, both the petitioners are beneficiaries of the exercise undertaken by the second

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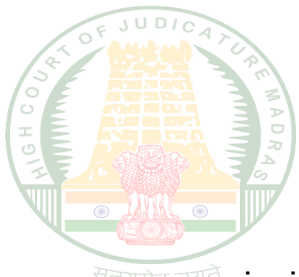
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respondent Commission. For the remaining questions, both the petitioners were not awarded marks only because the key claimed by them and marked by them did not tally with the keys finalized by the Expert Committee. The second respondent Commission has discharged its obligations correctly in a time bound manner and published the result of the Preliminary examination on 28.04.2023. Having not been able to compete with other candidates in their respective categories, the petitioners have filed these Writ Petitions and the same are liable to be dismissed.

12. Refuting to the submissions of the learned Standing Counsel appearing for the second respondent, the learned counsel appearing for the petitioner submitted that the Expert committee has been constituted without following proper guidelines and Rules and the Expert Committee being a constituted body by the second respondent Commission, the same should not be permitted to be a Judge of their own cause. He added that the Expert Committee is not a constitutional body, perhaps the same is a Committee which would favour the second respondent's Commission's directions. The second respondent Commission will not publish the final answer key until the entire selection process is over and such an exercise is in violation of the

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principles of natural justice. Without framing any Rules and qualification for the constitution of the Expert Committee, the exercise of constituting an Expert Committee itself is bad in the eye of law and hence, the recommendations of the Expert Committee shall not be accepted and the Writ Petition has to be allowed in the light of the answers provided by the petitioners in their representations. However, the second respondent placed before this Court the complete details as to the representations made by both the petitioners and the relevant finalized answer keys for the perusal of this Court.

13.A careful consideration of the entire file produced by the second respondent Commission would prove that the Expert Committee has acted meticulously to deal with 5917 representations submitted before the second respondent Commission pertaining to 111 different questions for finalization.

14.The Hon'ble Division Bench of this Court in **W.A(MD)Nos.1390, 1392, 1393 and 1409 of 2022, dated 12.04.2023 (N.Velumani and others Vs. The Secretary to Government and others)**, while dealing with the similar case has held as follows:-

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"9. This Court perused the status report, which would disclose that the TNPSC has taken last minute efforts and has complied with the interim order passed by this Court in a meticulous way. The main contention of the appellants herein is that the perversity in the Expert Committee report was not at all considered by the learned Judge and hence, the impugned orders have to be set aside. Such a contention cannot be countenanced by this court as the scope of judicial review is limited in respect of correctness of final key answers uploaded by Commission. Further, in *Richal vs. Rajasthan Public Service Commission* (cited supra), relied upon by the learned senior Counsel, even though the Apex Court interfered with the selection process only after obtaining the opinion of an expert committee, did not enter into the correctness of the questions and answers by itself.

10. It is also to be noted that very recently, this court passed a judgment in *W.A.No.1783 of 2021* on 31.03.2023, wherein the issue relating to scope of interference of the Writ Court in exercise of its jurisdiction under Article 226 of the Constitution of India with the report of an Expert Committee Body in relation to question / answer keys in a Competitive Examination, has been dealt with in detail and finally relying upon the principle laid down by the Hon'ble Supreme Court in



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U.P.Public Service Commission vs. Rahul Singh, cited supra, the writ appeal was allowed by setting aside the impugned order passed therein.”

15.The Hon'ble Apex Court in the case of **Uttar Pradesh Public Service Commission and another Vs. Rahul Singh and another** reported in **(2018) 7 SCC 254**, while dealing with the similar case has held as follows:-

“12.The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers.

.....

15. In view of the above discussion, we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field.”



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16.The Hon'ble Apex Court in a case of **Vikesh Kumar Gupta and another Vs. State of Rajasthan and others** reported in **(2021) 2 SCC 309**, while dealing with the similar case has held as follows:-

*"15.Examining the scope of judicial review with regards to re-evaluation of answer sheets, this Court in **Ran Vijay Singh & Ors. v. State of Uttar Pradesh & Ors. (2018) 2 SCC 357** held that court should not re-evaluate or scrutinize the answer sheets of a candidate as it has no expertise in the matters and the academic matters are best left to academics. This Court in the said judgment further 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



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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 the suspect or offending question.

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 examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the



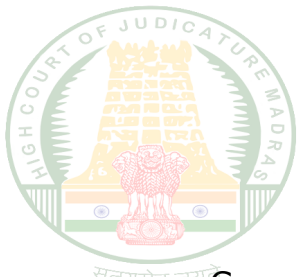
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examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination 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.”

17.In this case, the second respondent Commission on receiving objection from 5917 persons pertaining to 111 different questions promptly constituted an Expert Committee and placed all those representations to the Expert Committee and had worked meticulously, on the basis of the recommendation of the Expert



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Committee, has awarded marks to all the eligible candidates including the petitioners. Even after the said exercise, the petitioners were not able to touch the qualifying marks.

18. Following the direction of the Hon'ble Apex Court in the case of ***Uttar Pradesh Public Service Commission and another Vs. Rahul Singh and another*** reported in ***(2018) 7 SCC 254***, this Court presumes the correctness of the key answers and is inclined to proceed on that assumption. The Hon'ble Supreme Court has mandated that in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. Since it is a settled proposition of law that while exercising the discretionary and extraordinary power under Article 226 of the Constitution of India, this Court cannot act like an expert body by replacing the assessment made by the experts by upholding the representations submitted by the petitioners herein along with supporting documents produced by them. Hence, this Court consciously refrains from interfering with the impugned provisional selection list of the candidates selected for Mains Examination which is scheduled to be held from 10.08.2023 to 13.08.2023 for the post included in combined Civil Services Examination-I (Group – 1 Services), 2022.

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19. Accordingly, both the Writ Petitions stand dismissed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes / No
Index : Yes / No
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To

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Human Resources Management Department,
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L.VICTORIA GOWRI, J.

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