

(2012) 06 MAD CK 0046

In the Madras High Court

Case No : Writ Petition No. 14674 of 2012 and M.P. No. 1 of 2012

A. Saravanan

APPELLANT

Vs

Registrar General, High Court, Chennai - 600104

RESPONDENT

Date of Decision : 08-06-2012

Acts Referred:

Citation : (2012) 4 CTC 83 : (2012) 5 MLJ 1

Hon'ble Judges : N. Paul Vasanthakumar, J; M.M. Sundresh, J

Bench : Division Bench

Advocate : N.G.R. Prasad for Row and Reddy, for the Appellant; A.L. Somayaji, for the Respondent

Final Decision : Dismissed

Judgement

N. Paul Vasanthakumar, J.—The prayer in the writ petition is to issue a writ of mandamus directing the respondent Registrar General to re-

value the petitioner's answer book for Law Paper-II for Civil Judges Examination held on 25.3.2012 pursuant to the notification dated 21.1.2012

with registration No. 14295 and award appropriate marks and call him for viva-voce and publish his result. Heard Mr. N.G.R. Prasad, learned

counsel for the petitioner as well as Mr. AL. Somayaji, learned senior counsel for respondent.

2. It is the contention of the petitioner that he passed B.L. Degree in the year 2007 and he is a practising advocate for the past five years. He

applied for selection to the post of Civil Judges Junior Division pursuant to the notification dated 21.1.2012 with registration No. 14295. Petitioner

belongs to BC community. As per the notification, there are four papers in the written test, which would be followed by an oral test/viva-voce and

the B.C. candidates to be called for oral test/viva-voce, must secure 35 marks in each of the four papers. Results for the written tests were

published on 3.5.2012 and the petitioner secured 44 marks in Translation paper; 46 marks in Law Paper-I; 28 marks in Law Paper-II; and 48

marks in Law Paper-III. As the petitioner did not secure minimum marks of 35 in Law Paper-II, he was not called for viva-voce test. Petitioner

applied for xerox copy of answer sheets in Law Paper-II and the same was furnished by the respondent. Petitioner, being not satisfied with the

marks awarded, he is now praying for direction to re-value the answer sheets in Law Paper-II with consequential relief.

3. The main contention of the learned counsel for the petitioner is that the Division Bench of this Court, in a batch of writ petitions in W.P. No.

13550 of 2012 etc., by order dated 21.5.2012, while ordering to furnish xerox copies of the answer sheets for the candidates who have applied

for, also directed the High Court to examine whether re-valuation could be ordered if any request is made, and hence the learned counsel

submitted that the petitioner having applied for re-valuation by representation dated 6.6.2012, his answer sheets for Law Paper-II is bound to be

re-valued. The learned counsel also submitted that for question No. 2 in Law Paper-II, originally "8" marks were awarded and the same was

changed to "0" subsequently. The learned counsel further submitted that question No. 2 having been attempted and answered by the petitioner,

petitioner is entitled to get some marks and if seven marks are awarded to question No. 2, petitioner's total marks would be 35 and he will

become eligible to participate in the oral test/viva-voce. The learned counsel very much relied on the Judgment of this Court dated 21.5.2012 in

W.P. No. 13550 of 2012 etc., batch and contended that in view of the judicial order passed, petitioner is entitled to get his answer sheets for Law

Paper-II re-evaluated.

4. Mr. AL. Somayaji, learned senior counsel for the respondent submitted that neither under the Tamil Nadu State Judicial Service (Cadre and

Recruitment) Rules, 2007 nor in the instructions issued to the candidates while calling for applications, it is stated that the candidates can apply for

re-valuation of written answer sheets and in the absence of any provision for re-valuation, the petitioner is not entitled to seek re-valuation of the

answer sheets. Insofar as the submission that "8" marks were originally awarded and the same was altered to "0" to question No. 2 in Law Paper-

II, the learned senior counsel submitted that the answers were corrected by the concerned Examiner and correctly noted in the tabular column in

the mark sheet attached to the answer sheet and the said award of "0" mark was also noted by two Hon"ble Judges of this Court, who supervised

the valuation of answer sheets and the same is recorded in the judgment of the Division Bench dated 21.5.2012 and therefore the petitioner cannot

pray for re-valuation of the answer sheets. With regard to the contention that this Court in its order dated 21.5.2012 directed the High Court to

consider the claim for re-valuation, the learned senior counsel submitted that the said issue was considered by the Committee for Recruitment of

Civil Judges on 6.6.2012 and the Committee resolved that the valuation of answer sheets was done by senior District Judges under the direct

supervision of the Honourable Judges of the High Court, and hence, the Committee is of the opinion that there is no reason to exercise the

discretionary power of re-valuation. The learned senior counsel submitted that in the light of the said decision taken by the High Court, petitioner's

request for re-valuation is not maintainable.

5. We have considered the rival submissions of the learned counsel for the petitioner as well as learned senior counsel for the respondent.

6. In the notification issued on 21.1.2012 inviting applications for the post of Civil Judges Junior Division, nowhere it is stated that the candidate

can opt for re-valuation if they are not satisfied with the marks awarded in the written examinations. Recruitments are being made for the post of

Civil Judge under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007. In the said rules also, there is no provision to seek

re-valuation of answer sheets. In Annexure-I it is stated that the High Court shall conduct written examinations and viva-voce for direct

recruitment. The written examinations consist of four papers with 100 marks each and the candidates, who secure minimum of 30% for SC & ST

candidates; 35% for BC, OBC(M), MBC and denotified community and 40% for others would be called for viva-voce and no candidate, who

secure less than minimum marks specified for written examinations shall be eligible for viva-voce. The candidates, who are called for viva-voce

must secure 18 marks out of 60, which is the eligibility for selection. Thus, it is clear that in the said recruitment rules also there is no provision for seeking revaluation of answer sheets for written test.

7. In such circumstances, whether the petitioner is entitled to seek re-valuation as a matter of right. The said issue is considered by this Court when

similar challenge was made in the matter of recruitment made for the post of Civil Judges senior Division. Similar contention raised seeking re-

valuation of written answer sheets was negated by this Court in the decision *V. Yamuna Devi v. Registrar General* (2011) 1 MLJ 833. In

paragraphs 39 and 41 this Court held thus,

39. The issue regarding right of a candidate seeking revaluation is well settled. Neither the Tamil Nadu Judicial Service (Cadre and Recruitment)

Rules, 2007, nor the notification issued pursuant to which the petitioner applied for the post and taken part in the written test, contemplates a right

of revaluation/rescrutiny of answer sheets. In the absence of such provision, the petitioner is not entitled to seek for revaluation as held by the

Supreme Court in the decision *H.P. Public Service Commission Vs. Mukesh Thakur and Another*, wherein the Supreme Court held that in the

absence of any provision under the statute or statutory rules/regulations, the Court should not direct revaluation. In paragraphs 24 to 26 (in SCC)

the Supreme Court held thus,

24. The issue of revaluation of answer book is no more res Integra This issue was considered at length by this Court in *Maharashtra State Board*

of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, wherein this Court rejected the

contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even

the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/revaluation cannot be challenged unless there are

grounds to show that the policy itself is in violation of some statutory provision. The Court held as under:

14.....It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the statute

can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the

efficacious achievement of the objects and purposes of the Act....

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.

25. This view has been approved and relied upon and reiterated by this Court in *Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service*

Commission and Others, observing as under:

7.... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer

book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the 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. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the

General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has

got any right whatsoever to claim or ask for revaluation of his marks.

(Emphasis added)

A similar view has been reiterated in *Dr Muneeb-ul-rehman Haroon and Others Vs. Government of Jammu and Kashmir State and Others*, Board

of Secondary Education v. *Pravas Ranjan Panda* (2004) 13 SCC 383, *Board of Secondary Education v. D. Suvankar* (2007) 1 SCC 603, The

Secretary, West Bengal Council of Higher Secondary Education Vs. Ayan Das and Others, and *Sahiti and Others Vs. The Chancellor, Dr. N.T.R.*

University of Health Sciences and Others,

26. Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court

should not generally direct revaluation.

41.... in the absence of any provisions for the revaluation under the statutory rules, it is a fit case in which the petitioners are not entitled to any relief.

SLP filed against the said order in SLP (C) No. 621 of 2011 was also dismissed by the Honourable Supreme Court on 21.1.2011.

8. Same is the view taken by the Honourable Supreme Court in the decision Central Board of Secondary Education and Another Vs. Aditya

Bandopadhyay and Others, In para 35 the Supreme Court held thus,

35. In these cases, the High Court has rightly denied the prayer for re-evaluation of answer books sought by the candidates in view of the bar

contained in the rules and regulations of the examining bodies. It is also not a relief available under the RTI Act.....

9. The petitioner having participated in selection by accepting the rules and the notification issued, which nowhere contemplates the right to seek

re-valuation of the answer sheets, petitioner is not entitled to seek for re-valuation and the said issue is considered by the Supreme Court in

Vijendra Kumar Verma Vs. Public Service Commission, Uttarakhand and Others, ; Union of India (UOI) and Others Vs. S. Vinodh Kumar and

Others, and K.H. Siraj Vs. High Court of Kerala and Others, . Thus, the petitioner has no right to seek for revaluation of his answer sheets for

Law Paper-II.

10. Insofar as the contention of the petitioner about the earlier order passed by this Court dated 21.5.2012 in W.P. No. 13550 of 2012 etc., it is

to be noted that the Division Bench in paragraph 27 of the order clearly held as follows:

27.....We are well aware of the fact that conducting this examination is a herculean task and enormous efforts have been taken by the

respondent High Court. We are also well aware of the fact that TNPSC Rules are not applicable to the respondent High Court. But, since the

respondent High Court is conducting this examination in the place of the TNPSC, we are of the opinion that the respondent High Court can

examine whether they are willing to exercise their discretion of exercising the power of re-valuation or not.

The said observation is only a suggestion given to the High Court to exercise its

discretion and the request made by the candidates pursuant to the said suggestion was placed before the Committee for Recruitment of Civil Judges and on 6.6.2012 the Committee took a decision not to permit re-valuation. Hence, the learned counsel for the petitioner is not justified in relying on the judgment dated 21.5.2012 as the said judgment nowhere mandates the respondent to order revaluation whenever request is made by a candidate. In the light of the above findings, we are of the view that the petitioner has not made out any case for ordering re-valuation of his answer sheet for Law Paper-II, for which examination was held on 25.3.2012.

There is no merit in the writ petition and consequently the writ petition is dismissed. No costs. Connected miscellaneous petition is also dismissed.