

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No.1598/2020
M.P. No.02/2018
(S.W.P. No.211/2016)

Wednesday, this the 12th day of May, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Tajamul Ahmad Khan & others

..Applicants
(Mr. M Y Bhat, Senior Advocate)

VERSUS

State of Jammu & Kashmir & others

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General for respondent
No.1, Mr. Azhar-ul-Amin, learned standing counsel for
respondent Nos. 2 & 3, *nemo* for private respondents)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

M.P. No.02/2018 (impleadment)



This Miscellaneous Petition is filed with a prayer to implead the applicants herein in the SWP/TA. It is stated that the applicants stand on the same footing as though the persons, who filed the SWP/TA. There is no serious opposition for the same.

2. The Miscellaneous Petition is ordered and they shall stand as petitioners/applicants in the SWP/TA.

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3. The Jammu & Kashmir Public Service Commission issued advertisement notice dated 20.03.2014 for 193 posts of Lecturer Physical Education, in Technical Education / Youth Services & Sports Department. The applicant, unofficial respondents and various others applied for the post. The selection process involved conducting of a written test with multiple answers and the physical endurance test. The results were published on 02.02.2016. The names of the applicants did not figure in that.

4. The applicants contend that when the official respondents published the draft answer key, they made representations pointing out the defects in respect of thirteen questions, but without attending to the same, the final results were declared. They also contend that the entire selection process is vitiated and the results are liable to be set aside.



5. On behalf of respondent Nos. 2 & 3, a detailed counter affidavit is filed. It is pleaded that the test was conducted in accordance with the stipulated procedure, and thereafter the draft key was published. They stated that several representations were received from the candidates pointing out certain defects and that all of them were referred to the expert body. They further state that the expert body corrected the answers for two questions, namely, question Nos. 1 & 54; and the results were accordingly published.

6. Another counter affidavit is filed on behalf of respondent Nos. 2 & 3 to M.A. No.01/2018, on the same lines.

7. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.1598/2020.

8. Today, we heard Mr. M Y Bhat, learned senior counsel for applicants, Mr. Sudesh Magotra, learned Deputy Advocate General for respondent No.1 and Mr. Azhar-ul-Amin, learned standing counsel for respondent Nos. 2 & 3. There is no representation for private respondents



9. The applicants have challenged the entire selection list for the post of Lecturer Physical Education in Technical Education / Youth Services & Sports Department. Their contention is that the selection process is vitiated on account of the fact that the answers for as many as thirteen questions, namely, question Nos. 1, 5, 9, 10, 12, 20, 26, 42, 58, 79, 88, 101 and 102 were wrong. They have also furnished a table mentioning the answers according to the key and the correct answers to them. Reference is also made to certain material.

10. The expression of doubt for the answers to key is not something new. It occurs in almost every examination where such a procedure is adopted. One important aspect, that needs to be kept in mind, is that all the four answers to the question appear to be so close to each other, that it is only a person with accurate knowledge about the subject, that would be able to differentiate the subtle distinction among the four. Many a time, more than one answer may appear to be correct. However, it is only the expert, who framed the question, would be in a position to justify the answer picked up by him. Notwithstanding the



various precautions taken by the agency, that conducts the examination, there are bound to be instances of mistakes creping into the answers. A mechanism is evolved to invite objections to the draft key and whenever objections are received, they are referred to the concerned expert. It is only after the issue is settled, that the results are declared.

11. A candidate, who raised doubt about the accuracy of the answer in the key, has to demonstrate his point of view by referring to unquestionable material. In such cases, the prescribed text books, if any, or the works of renowned authors assume the significance. Heavy burden lies on the person, who raises such doubts. The Hon'ble Supreme Court issued guidelines in this regard from time to time. In this context, the reference is made to the judgments of Hon'ble Supreme Court in **Kanpur University & others v. Samir Gupta & others**, AIR 1983 (SC) 1230 and **Abhijit Sen & others v. State of U.P. & others**, AIR 1984 (SC) 1402 and quite large number of judgments are rendered thereafter.

12. The gist of the judgments is that the Court/Tribunal should not tend to import personal knowledge and the issue must be left to be resolved by the experts and at the same time, the candidate should not be permitted to suffer if the error is so glaring that it



can be demonstrated on the strength of unquestionable material. In the instant case, the applicants did not even mention the particulars of the questions, which, according to him, were provided with wrong answers. Except making a reference to the representation, said to have been made by the applicants, they did not reproduce the questions in the SWP/TA, much less did they substantiate their plea that the answers indicated in the key were wrong. When thousands of students have taken part in the examination and more than 100 are selected, the result cannot be set at naught, on the basis of unfounded and unsubstantiated allegations.

13. During the course of arguments also, we verified from the learned senior counsel for the applicants as to whether any text book was prescribed for the examination or whether any works of renowned authors were consulted before making such representation. However, there is no definite answer for this.

14. The basis for the applicants to contend that the answers for the thirteen questions were wrong, appears to be a material available in the market. When the examinations are conducted in a highly professional manner, it is not at all safe to rely upon the material available in the market, unless the authors are so renowned and authenticated, that their works are recognized by

the Universities/Institutions and the other related agencies. When the SWP/TA itself is silent about the particulars of the questions, not to speak of the answers and the basis therefor, we do not find any ground to interfere with the result. It is accordingly dismissed. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 12, 2021
/sunil/jyoti/dsn/