

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA**

WRIT APPEAL NO: 314 OF 2024

Writ Appeal under clause 15 of the Letters Patent Against the Order Dated 02/04/2024 in W.P. No. 4796 of 2020 on the file of the High Court.

Between:

Uzma Nazneen, D/o Khaja Zainulabuddin, Aged about 26 years, Hall Ticket No.218721, Occ. Presently working as Junior Personnel Officer, TSSPDCL Corporate Office, 6-1-50, Mint compound, Hyderabad 500063 R/o H No 12-4-129, Murshid Gadda, Siddipet, Telangana.

...APPELLANT

AND

1. Asia Tabassum, D/o MA Rasheed, Aged about 27 years, Occ Unemployed, R/o H No 3-1-444, Road No 1, Mythri Nagar, L B Nagar, Hyderabad, Telangana 500074.
2. The State of Telangana, Rep. by its Principal Secretary, Energy Government of Telangana, BRK Bhavan, Hyderabad, Telangana 500063.
3. Telangana State Southern Power Distribution Company Ltd., Rep. by its Chairman and Managing Director, Corporate Office, 6-1-50, Mint Compound, Hyderabad, Telangana 500063.

...RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the order and judgment passed in WP 4796/2020, dated 2/4/24.

Counsel for the Appellant : SRI DR.K.LAKSHMI NARASIMHA

Counsel for the Respondent No.1 : SRI RAMESH CHILLA

Counsel for the Respondent No.2 : GP FOR ENERGY

**Counsel for the Respondent No.3 : SRI G.VIDYA SAGAR RAO
for SMT.K.UDAYA SRI, SC FOR TSSPDCL**

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.314 of 2024

JUDGMENT *(Per Hon'ble Smt. Justice Renuka Yara)*

Heard Dr. Lakshmi Narasimha, learned counsel appearing for the appellant, Sri Ramesh Chilla, learned counsel appearing for respondent No.1 and Sri G.Vidya Sagar, learned Senior Counsel appearing for Smt. K. Udaya Sri, learned Standing Counsel appearing for respondent No.3.

2. This is an Intra-Court appeal arising out of the common order dated 02.04.2024 passed by a learned Single Judge in I.A.No.3 of 2020 in/and W.P.No.4796 of 2020, whereby, a direction was issued to respondent Nos.2 and 3 to give one mark to respondent No.1 for option 'A' given by her to question No.27 of Booklet-C and to consider her appointment for the post of Junior Personnel Officer.

3. The facts of the case reveal that respondent No.3-TSSPDCL conducted written examination on 15.12.2019 for recruitment to the post of Junior Personnel Officer. The written examination consisted of Question Paper Booklet containing 100 Multiple choice

questions in English, each question followed by a translation in Telugu. In the instructions to the candidates printed in the said booklet, it is specifically mentioned that in case, there is any discrepancy in translation, the English version of the question will be considered as correct and final. The said instruction No.3 is extracted and reproduced below:

“In this question paper for all questions the corresponding Telugu version is also provided. In case of any discrepancy in the translation, the English version of the question will be considered as correct and final”.

4. In the said Question Paper Booklet provided in written examination, Question No.27 in English carried exact opposite meaning as per Telugu translation. As per English version, the question was about the date of payment of wages by a factory or Industrial Establishment where there are less than 1000 employees and the correct answer is Option 'C' i.e. 7th of every month. Whereas, as per Telugu translation, the question was about the date of payment of wages by a factory where there are more than 1000 employees and the correct answer is Option 'A' i.e. 10th of every month. The writ appellant gave correct answer as per English version i.e. Option 'C' and secured 69 marks out of 100 marks. Per contra, respondent No.1/writ petitioner gave correct answer to the Telugu translation i.e. Option 'A' and secured 68 marks.

5. In that backdrop, respondent No.1 filed a writ petition vide W.P.No.4796 of 2020 with a prayer to direct respondent No.3 to consider both the answers of option 'C' for the question in English and option 'A' for the question in Telugu and award one mark for her and to consider her appointment in case she comes within the zone of consideration for the post of Junior Personnel officer as per recruitment notification. When there are equal marks secured by two candidates, the candidate who is older would have to be considered for appointment. In that case, respondent No.1/writ petitioner being older, she has to be selected for the said post. Vide order dated 05.05.2020 in W.P.No.4796 of 2020, an interim stay was granted on the recruitment of the appellant till 26.05.2020. After the said order got vacated in view of lapse of time period, during the pendency of the said writ petition, the appellant filed a writ petition vide W.P.No.32381 of 2021 seeking a direction to respondent Nos.2 and 3 to appoint her as Junior Personal Officer, since she secured 69 marks. Vide order dated 07.06.2022, a learned Single Judge while observing that there was no further extension of aforesaid interim order dated 05.05.2020 passed in W.P.No.4796 of 2020, the appellant was directed to be immediately appointed as Junior Personnel Officer pending disposal of the

W.P.No.32381 of 2021. Further, it was made clear that any selection made shall be subject to further orders in the said writ petitions.

6. Having considered the case of the appellant and respondents, the learned Single Judge observed that the entire controversy is about one question where the discrepancy is about simple translation and simple words. Consequently, the learned Single Judge held that there is no need for expert opinion as the questions in both English and Telugu versions and their answers are clear. Finally, the learned Single Judge proceeded to hold that in the booklet, there is no instruction of choosing of medium of language by the candidates to answer the question paper leaving option to the candidates and therefore, the correct option chosen to in versions have to be considered and thus, respondent No.1 has to be given one mark. With the said findings, the learned Single Judge vide impugned order allowed W.P.No.4796 of 2020 filed by respondent No.1 while dismissing I.A.No.3 of 2020 filed by the appellant.

7. During arguments in appeal, learned counsel for the appellant submitted that the learned Single Judge erred in application of ratio

in **Kanpur University, through Vice-Chancellor and others vs. Samir Gupta and others**¹ to the present case as in the said case, the controversy arose with regard to some questions, wherein the key answers for those questions were not correct and there was no bilingual question paper. The discrepancy arose in the correctness of the answer, not in translation and also there was no pre-notified rule that English would prevail over regional languages. In the instant case, there is a clear instruction conveyed to the candidates writing examination by way of Instruction No.3 of Question Paper Booklet that in case of any discrepancy in translation to Telugu version, the English version would prevail.

8. Learned counsel for the appellant further placed reliance upon the judgment of the Hon'ble Supreme Court in **Uttar Pradesh Public Service Commission, through its Chairman and another vs. Rahul Singh and another**², wherein, at paragraph Nos.12 and 14, it is held as under:

"12. 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. In Kanpur University case (supra), the Court recommended a

¹ (1983) 4 SCC 309

² (2018) 7 SCC 254

system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

14.When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts”.

9. Learned counsel for the appellant further placed reliance on **State of Tamil Nadu vs. Hemalatha**³, wherein, it is held that where instructions explicitly state that a particular language will prevail, candidates cannot claim advantage due to translation issues and such exam instructions are binding and cannot be ignored. He further referred to the Judgment of the Hon'ble Supreme Court in **Central Board of Secondary Education vs. T.K.Rangarajan**⁴. It was a case where the students appeared in National Eligibility-cum-Entrance Test - UG, 2018, which was in English, conducted by the Central Board of Secondary Education. Therein bi-lingual questions were set in English with an option of regional language Tamil. The instruction C (vi) in that case provided

³ (2020) 19 SCC 430

⁴ (2019) 12 SCC 674

that in case of any ambiguity in translation of any of the questions, its English version shall be treated as final.

10. Arguing on the basis of equity, learned counsel for the appellant referred to the judgment of the Hon'ble Supreme Court in **Sivananda C.T. vs. High Court of Kerala**⁵, wherein it addresses critical issues surrounding the selection process for District Judges in Kerala. The central legal contention revolves around whether such a procedural shift violates the doctrine of legitimate expectation and the principles of fairness and non-arbitrariness enshrined in Article 14 of the Constitution.

11. In this particular case of recruitment for the post of Junior Personnel Officer, earlier Writ Appeals vide Nos.126, 133 and 406 of 2021 were filed against Common Order dated 03.03.2021 in W.P.Nos.11810 and 18335 of 2020, whereby the learned Single Judge disposed of the writ petitions directing the official respondents to refer the disputed Question No.58 in Booklet Code-B, to an Expert Committee. On receiving Expert Committee opinion, the respondents were directed to act as per the law laid down by the Hon'ble Supreme Court in Bihar Staff Selection Commission v. Arun

⁵ 2023 SCC Online SC 994

Kumar [(2020) 6 SCC 362]. The said appeals were dismissed on 29.10.2021 and the matters were carried to the Hon'ble Supreme Court in SLP Nos.20111-20113 of 2021 and the same were also dismissed on 13.12.2021.

12. On the basis of the aforesaid orders passed with respect to the present recruitment, it is urged by the learned counsel for the appellant that the Revised Merit List, which includes the name of appellant published in December, 2021 after getting the opinion of Expert Committee has attained finality and the learned Single Judge cannot review the same vide impugned order.

13. Learned counsel for respondent No.1 would submit that Instruction No.3 would not come in the way of awarding one mark to respondent No.1 since there is no discrepancy/error in the question No.27 between English and Telugu version, instead, there is complete clarity in the question posed in both English and Telugu versions though they are diametrically opposite. Since there is no discrepancy in the English and Telugu versions, according to the learned counsel for respondent No.1, both answers need to be given one mark for choosing the correct option in the respective version.

14. Learned senior counsel for respondent No.3 submitted that when there was issue about the examination questions and answers raised by 436 candidates in the present selection process, the same were referred to the Expert Committee of Osmania University and valuation was done as per the direction given by the Expert Committee and accordingly, the recruitment process was completed and published the Select List vide notification dated 28.09.2019 and subsequently, revised list was published in December, 2021 after disposal of aforesaid SLPs.

15. Perusal of the impugned order passed by the learned Single Judge shows that reliance was placed primarily on **Kanpur University case (1 supra)**, wherein, the question that arose for consideration was "when a paper-setter commits an error while indicating the correct answer to a question set by him, can the students who answer that question correctly be failed for the reason that though their answer is correct, it does not accord with the answer supplied by the paper-setter to the University as the correct answer". Such is not the issue involved in the present case. In the present case, there is no error committed by the paper-setter in giving correct answer, rather, there are two correct questions in English and vernacular language and two correct answers. Further,

in the said case, the candidates had option to answer the question paper as set in English or in Hindi. In the said case, it was held that if the key was not wrong as it turned out to be, they would have succeeded in getting admission. In the instant case, the key is not wrong. The key is given on the basis of English questions but not the translated Telugu questions and therefore, marks were awarded to the candidates who have given correct answers as per English questions. Lastly, in the said case, there was no such instruction to the students about language to be opted for answering question and also, in case, there was any discrepancy in the questions, which language would prevail.

16. The learned Single Judge referred to the case of **UPPSC (2 supra)**, wherein, it is held that judges cannot take on the role of experts in academic matters and the same shall be left to the experts in various subjects. The legal ratio laid down in said judgment was not considered on the premise that the present case deals with simple interpretation and simple words which does not require expert opinion. But the fact remains that when the question posed in the examination conducted by respondent No.3 was challenged, this Court referred the matter to experts which was even confirmed in appeals and SLPs. Thereafter, on the basis of

guidance given by the experts, revised final list including the name of appellant has been prepared. Hence, the said Revised Merit List prepared by respondent Nos.2 and 3 with the aid of Osmania University which attained finality could not have been challenged by filing a writ petition before a learned Single Judge of this Court.

17. The main issue involved is discrepancy in translation which led to the litigation between the appellant and respondent No.1. In this regard, the judgment of the Hon'ble Supreme Court in **CBIT case (4 supra)** is clear. In the said case, there were errors/discrepancies in questions between English and Tamil Versions. In the said case, the Hon'ble Supreme Court has held that the questions in Tamil version contained errors, the English language was primary and therefore, marks could not be awarded on the basis of Tamil version. In the instant case, the examination was conducted on the basis of English version. The inclusion of Telugu translation was a mere formality meant for facilitating certain candidates who were more comfortable writing the examination in Telugu language as the instruction No.(iii) in the Question paper booklet make it clear that when there is a discrepancy, the English version would prevail but not Telugu version. Hence, the decision of the learned Single Judge to give one mark to the respondent No.1 is clearly an error.

18. Lastly, in terms of equity as well, the appellant has been recruited in the post of Junior Personnel Officer on 20.06.2022 and has already put 2½ years' service. The writ appellant has secured 69 marks as compared to 68 marks by respondent No.1. The marking of answer by writ appellant is as per instructions which were issued along with Question Paper Booklet prior to the commencement of examination. Once the examination process is completed, rules cannot be changed to accommodate respondent No.1 in such manner that instructions issued prior to the examination can be overruled/ changed. When respondent No.1 has not secured higher or equal marks as compared to the appellant as per the instructions issued prior to commencement of examination or as per revised final list prepared on the basis of experts of Osmania University, there can be no legitimate expectation to consider the respondent No.1 for recruitment to the exclusion of the appellant.

19. In view of the above discussion, viewed from any angle, the case of respondent No.1 is not sustainable. To sum up, we are of the considered opinion that there was erroneous application of ratio laid down in **Kanpur University case (1 supra)** to the present case

by the learned Single Judge with complete disregard to Instruction No.3 of Question Paper Booklet in the instant case, which was issued to the candidates while writing the examination. Moreover, the factum of the orders of this Court in Writ Appeal Nos.126, 133 and 406 of 2021 and the Hon'ble Supreme Court in SLP Nos.20111-20113 of 2021 were not considered while passing the impugned order.

19. For the reasons stated above, order dated 02.04.2024 in I.A.No.3 of 2020 in/and W.P.No.4796 of 2020 is set aside. The Appeal is, accordingly, allowed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of.

//TRUE COPY//

SD/- K. SRINIVAS RAO
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Energy Government of Telangana, BRK Bhavan, Hyderabad, State of Telangana, Telangana 500063.
2. The Chairman and Managing Director, Telangana State Southern Power Distribution Company Ltd., Corporate Office, 6-1-50, Mint Compound, Hyderabad, Telangana 500063.
3. One CC to SRI DR.K.LAKSHMI NARASIMHA, Advocate. [OPUC]
4. One CC to SRI RAMESH CHILLA, Advocate. [OPUC]
5. Two CCs to GP FOR ENERGY, High Court for the State of Telangana at Hyderabad. [OUT]
6. One CC to SMT.K.UDAYA SRI, SC FOR TGSPDCL. [OPUC]
7. Two CD Copies.

BSK

GJP

HIGH COURT

DATED:28/02/2025

JUDGMENT

WA.No.314 of 2024



**ALLOWING THE WRIT APPEAL
WITHOUT COSTS**

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