

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF MAY, 2025

PRESENT

THE HON'BLE MR. N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL No.1298 OF 2024 (S-RES)

C/W

WRIT APPEAL No.1018 OF 2024 (S-RES)

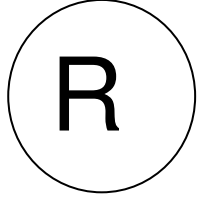
WRIT APPEAL No.1160 OF 2024 (S-RES)

WRIT APPEAL No.1344 OF 2024 (S-RES)

IN WA No.1298/2024

BETWEEN:

- 1 . SRI NAVEEN KUMAR N.,
S/O NARAYANASWAMY,
AGED ABOUT 31 YEARS
R/AT No. 227, MNT LAYOUT,
NEAR POLICE STATION,
MADANAYAKANAHALLI,
BENGALURU 562162.
- 2 . SYED BURHAN AHMED.
S/O SYED NISRAHAMED,
AGED ABOUT 29 YEARS,
R/AT PLOT 1 AND 2,
WARD No.16, 1ST CROSS,
NEAR SAI BABATEMPLE,
VISHAL NAGAR,
BALLARI 583101.
- 3 . SRI GAVIYAPPA G. H.,
S/O G. HUCHAPPA,



AGED ABOUT 33 YEARS,
R/AT WARD No.1,
BESIDE MASJID, VITTALAPUR,
BALLARI 583115.

- 4 . SRI SHIVANANDA HARNANNAVAR,
S/O BHIMAPPA,
AGED ABOUT 31 YEARS,
R/AT No.271,
NEAR KANNAD SCHOOL
HUKKERI (RURAL),
JAGANUR TALUK,
BELAGAVI 591305.

...APPELLANTS

(BY SRI PRITHVEESH M. K., ADVOCATE)

AND:

- 1 . M/S KARNATAKA POWER CORPORATION
LIMITED.,
A GOVT. OF KARNATAKA UNDERTAKING,
No.82, SHAKTHI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD ,
BENGALURU 560001.
- 2 . THE MANAGING DIRECTOR,
M/S KARNATAKA POWER CORPORATION
LIMITED,
No.82, SHAKTHI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD,
BENGALURU 560001.
- 3 . KARNATAKA EXAMINATION AUTHORITY,
SAMPIGE ROAD,
18TH CROSS,
MALLESHWARAM,
BANGALORE 560012,
REP.BY EXECUTIVE DIRECTOR,
4. GIRISH. J.,
S/O SRI JAYARAMLINGAIAH,

AGED ABOUT 33 YEARS,
R/A No.60, 4TH MAIN, 4TH CROSS,
KTG COLLEGE ROAD, SRIGANGADHAR,
HEGGANAHALLI CROSS,
BANGALORE-560091.

5. MR. SUGURAYYA SWAMI,
S/O SRI NEPAL SWAMI,
AGED ABOUT 33 YEARS,
R/A No. 11-390-15/A,
SHANTHVEER NAGAR,
GULBARGA 585103.
6. MR. SHASHIDARA JM,
S/O SRI. KEDARASWAMY JM,
AGED ABOUT 31 YEARS,
R/A No. 0-114B, KHB ROAD,
NEAR ANGANAVADI,
RAMANAGARA BELLARY-583121.
7. NAVEEN KUMAR S,
S/O SRI. SUBBAPPA SR,
AGED ABOUT 34 YEARS,
R/A ML HALLI,
MADASURLINGADAHALLI,
SHIMOGA 577434.
8. MR. GOVIND RATHOD,
S/O SRI. MUDAKAPPA,
AGED ABOUT 31 YEARS,
GADDI THANDA,
DEVADURGA, RAICHUR - 584111.
9. MR. SHARANABASU SONNA,
S/O SHIVAPPA SONNA,
AGED ABOUT 30 YEARS,
R/A 436, MASALI BK PO, TAMBA,
VIJAYAPURA- 586215.
10. MR. SUNIL HOSALLI,
S/O SRI BSAPPA HOSALLI,
AGED ABOUT 32 YEARS,
R/A No.131,TEACHERS COLONY,
BANDIHALLI ROAD,

HAGARIBOMMANAHALLI,
BELLARI 583212.

...RESPONDENTS

(BY SRI P.S. RAJAGOPAL, SENIOR COUNSEL FOR
SRI AJAY J NANDALIKE, ADVOCATE FOR C/R1;
SRI N.K. RAMESH, ADVOCATE FOR R3;
SRI SURAJ NAIK, ADVOCATE FOR
SRI PRAVEEN KUMAR, ADVOCATE FOR IMPEADING
APPLICANTS IN IA 5/2024;
SRI KESHAV M. DATTAR, ADVOCATE FOR IMPEADING
APPLICANTS IN IA 6/2024;
SRI D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SMT. SIRI R., ADVOCATE FOR IMPEADING
APPLICANTS IN IA 7/2024)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 10/07/2024 PASSED BY THE LEARNED SINGLE
JUDGE OF THIS HON'BLE COURT IN WP No.16517/2024 AND
CONSEQUENTLY ALLOW THE SAID WRIT PETITION.

IN WA No.1018/2024

BETWEEN:

- 1 . MR. MAHESH KUMAR,
SON OF HULIGEPPA,
AGED ABOUT 35 YEARS,
RESIDING AT No.201,
6TH MAIN, BCC LAYOUT,
BANGALORE 560040.

...APPELLANT

(BY SRI NEERAJ SASTRY, ADVOCATE)

AND:

- 1 . KARNATAKA POWER CORPORATION LIMITED,
A PUBLIC LIMITED COMPANY OWNED BY
THE STATE OF KARNATAKA,
HAVING REGISTERED OFFICE AT No.82,

SHAKTHI BHAVAN,
RACE COURSE ROAD,
BANGALORE 560001,
REP. BY ITS MANAGING DIRECTOR.

2 . THE DIRECTOR (HR) KARNATAKA POWER
CORPORATION LIMITED,
No.82, SHAKTHI BHAVAN,
RACE COURSE ROAD,
BANGALORE 560001.
REP BY ITS MANAGING DIRECTOR.

3 . KARNATAKA EXAMINATIONS AUTHORITY,
SAMPIGE ROAD,
18TH CROSS, MALLESHWARAM,
BANGALORE 560012,
REP. BY ITS EXECUTIVE DIRECTOR.

4 . MR. MAHESHA KUMAR P.,
SON OF HANUMANTHAPPA,
AGED ABOUT 40 YEARS,
RESIDING AT No.13-3-3/47,
GANDHINAGAR, YERAMARUS CAMP,
RAICHUR 584135.

...RESPONDENTS

(BY SRI P.S. RAJAGOPAL, SENIOR COUNSEL FOR
SRI AJAY J NANDALIKE, ADVOCATE FOR C/R1-2;
SRI N.K. RAMESH, ADVOCATE FOR R3;
V/O DATED 23.09.2024 NOTICE TO R4 IS DISPENSED WITH;
SRI KESHAV M. DATTAR, ADVOCATE FOR IMPEADING
APPLICANTS IN IA 2/2024;
SRI D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SMT. SIRI R., ADVOCATE FOR
IMPEADING APPLICANTS IN IA 1/2025;
SRI M.S. RAJENDRA, ADVOCATE FOR IMPEADING
APPLICANTS IN IA 2/2025)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
IMPUGNED ORDER DATED 12.06.2024 PASSED BY THE SINGLE
BENCH, AND CONSEQUENTLY, ALLOW THE PETITION IN WP No.
14233/2024.

IN WA No.1160/2024

BETWEEN:

- 1 . MR. GIRISH. J.,
SON OF SRI. JAYARAMLINGAIAH,
AGED ABOUT 33 YEARS,
RESIDING AT No. 60,
4TH MAIN, 4TH A CROSS,
KTG COLLEGE ROAD,
SRIGANDHANAGAR,
HEGGANAHALLI CROSS,
BENGALURU-560 091.
- 2 . MR. SUGURAYYA SWAMI,
SON OF SRI. NEPAL SWAMI,
AGED ABOUT 33 YEARS,
RESIDING AT No. 11-390-15/A,
SHANTHVEER NAGAR,
GULBARGA-585 103.
- 3 . MR. SHASHIDARA J. M.,
SON OF SRI. KEDARASWAMY. J. M.,
AGED ABOUT 31 YEARS,
RESIDING AT No. 0-114B, KHB ROAD,
NEAR ANGANA VADI,
RAMANAGARA, BELLARY-583 212.
- 4 . MR. SUNIL HOSALLI,
SON OF SRI. BASAPPA HOSALLI,
AGED ABOUT 32 YEARS,
RESIDING AT No.131,
TEACHERS COLONY,
BANDIHALLI ROAD,
HAGARIBOMMANAHALLI,
BELLARI-583 212.

...APPELLANTS

(BY SRI PARASHURAM A. L., ADVOCATE)

AND:

- 1 . M/S. KARNATAKA POWER CORPORATION LIMITED,
A GOVT. OF KARNATAKA UNDERTAKING,

No.82, SHAKTHI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD,
BENGALURU-560 001.

2 . THE MANAGING DIRECTOR,
KARNATAKA POWER CORPORATION LIMITED,
No. 82, SHAKTHI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD,
BENGALURU-560 001.

3 . KARNATAKA EXAMINATIONS AUTHORITY,
SAMPIGE ROAD, 18TH CROSS,
MALLESHWARAM,
BANGALORE-560 012,
REP. BY ITS EXECUTIVE DIRECTOR.

...RESPONDENTS

(BY SRI P.S. RAJAGOPAL, SENIOR COUNSEL FOR
SRI AJAY J NANDALIKE, ADVOCATE FOR C/R1-2;
SRI N.K. RAMESH, ADVOCATE FOR R3;
SRI PRAVEEN KUMAR, ADVOCATE FOR IMPEADING
APPLICANTS IN IA No.2/2024)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE ORDER
OF THE LEARNED SINGLE JUDGE DATED 10/07/2024 IN WP
No.16517/2024 AND CONSEQUENTLY ALLOW THE SAID WRIT
PETITION.

IN WA No.1344/2024

BETWEEN:

1 . MISS SWATI S KENDRI,
C/O DR. SURESH S KENDRI,
AGED 30 YEARS,
RESIDING AT No.150,
HPO AND RMS LAYOUT,
SATHAGAHALLI, PO. KALYANAGIRI,
DIST. MYSURU - 570019.

- 2 . SRI. KALENDRACHARI K.,
S/O SRISHAILACHARI,
AGED 34 YEARS,
RESIDING AT No.05, 1ST WARD,
GANIGARA STREET,
M.B.IYYANAHALLI,
PO. M. B. AYYANAHALLI,
DIST. BALLARI - 583126.
- 3 . SRI. KHAZAMAINUDDIN SAB,
S/O MADARASAB MAKHANDARA,,
AGED 39 YEARS,
RESIDING AT ADOOR,
PO. RAJOOR,
TQ. DIST. KOPPAL - 583236.
- 4 . SRI. SHIVKUMAR,
S/O CHANDRAKANTH,
AGED 39 YEARS,
RESIDING AT No. 17-1-66,
NEAR HANUMAN TEMPLE,
OLD MAILOOR,
TQ. DIST. BIDAR - 585401.
- 5 . SRI. SHIVAPRASAD G JUMANALMATH,
S/O GURAYYA ,
AGED ABOUT 36 YEARS,
RESIDING AT 11,
4TH CROSS, KALYAN NAGAR,
VIDYANAGAR HUBLI,
HUBLI ENG COLLEGE,
DHARWAD 580 031.
- 6 . SRI PAVAN KUMAR N.,
S/O GAJENDRA N.,
AGED ABOUT 35 YEARS,
RESIDING AT No.114/47
VATAPPA STREET,
NEAR RENUKA YELLAMMA TEMPLE,
COWL BAZAR, BALLARY,
BELLARY.

...APPELLANTS

(BY SRI VINAYAKA B. VISHNU BATTU, ADVOCATE)

AND:

- 1 . KARNATAKA POWER CORPORATION LIMITED,
A GOVT. OF KARNATAKA UNDERTAKING
No.82, SHAKTI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD,
BENGALURU - 560001.
- 2 . THE MANAGING DIRECTOR
KARNATAKA POWER CORPORATION LIMITED,
No.82, SHAKTI BHAVAN,
CORPORATE OFFICE,
RACE COURSE ROAD,
BENGALURU - 560001.
- 3 . KARNATAKA EXAMINATIONS AUTHORITY,
SAMPIGE ROAD, 18TH CROSS,
MALLESHWARAM,
BANGALORE - 560012,
REP. BY ITS EXECUTIVE DIRECTOR.

...RESPONDENTS

(BY SRI P.S. RAJAGOPAL, SENIOR COUNSEL FOR
SRI AJAY J NANDALIKE, ADVOCATE FOR C/R1-R2;
SRI N.K. RAMESH, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 10/07/2024 PASSED BY LEARNED SINGLE
JUDGE IN WRIT PETITION No.16517/2024 AND CONSEQUENTLY
ALLOW THE WRIT PETITION NO.16517/2024 FILED BY
PETITIONERS THEREIN.

THESE WRIT APPEALS HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT, COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED
AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard learned advocate Mr. M.K. Prithveesh for the appellants, learned Senior Advocate Mr. P.S. Rajagopal for learned advocate Mr. Ajay J. Nandalike for respondent No.1, learned advocate Mr. N.K. Ramesh for respondent No.3, learned advocate Mr. Suraj Naik for learned advocate Mr. Praveen Kumar for the impleading applicants in I.A.No.5 of 2024, learned advocate Mr. Keshav M. Datar for impleading applicants in I.A.No.6 of 2024 and learned Senior Advocate Mr. D.R. Ravishankar for learned advocate Smt. R. Siri for impleading applicants in I.A.No.7 of 2024 in Writ Appeal No.1298 of 2024;

Learned advocate Mr. Neeraj Sastry for the appellant, learned Senior Advocate Mr. P.S. Rajagopal for learned advocate Mr. Ajay J. Nandalike for respondent Nos.1 and 2, learned advocate Mr. N.K. Ramesh for respondent No.3, learned advocate Mr. Keshav M. Datar for the impleading applicant in I.A.No.2 of 2024, learned Senior Advocate Mr. D.R. Ravishankar for learned advocate Smt. R. Siri for impleading applicants in I.A.No.1 of 2025

and learned advocate Mr. M.S. Rajendra for impleading applicants in I.A.No.2 of 2025 in Writ Appeal No.1018 of 2024;

Learned advocate Mr. Vinayaka B. Vishnu Batta for the appellants, learned Senior Advocate Mr. P.S. Rajagopal for learned advocate Mr. Ajay J. Nandalike for respondent No.1, learned advocate Mr. N.K. Ramesh for respondent No.3 in Writ Appeal No.1344 of 2024; and

Learned advocate Mr. A.L. Parashuram for the appellants, learned Senior Advocate Mr. P.S. Rajagopal for learned advocate Mr. Ajay J. Nandalike for respondent Nos.1 and 2, learned advocate Mr. N.K. Ramesh for respondent No.3 and learned advocate Mr. Praveen Kumar for the impleading applicants in I.A.No.2 of 2024 in Writ Appeal No.1160 of 2024.

2. Writ Appeal No.1298 of 2024 under Section 4 of the High Court Act, 1961 has been preferred against the order of learned Single Judge dated 10.07.2024 in Writ Petition No.16517 of 2024 along with I.A. No.2 of 2024 seeking leave of the Court to prosecute the appeal.

Writ Appeal No.1018 of 2024 has been preferred challenging the order dated 12.06.2024 in Writ Petition No.14233 of 2024. Writ Appeal Nos.1160 of 2024 and 1344 of 2024 have been preferred

challenging the order dated 10.07.2024 in Writ Petition No.16517 of 2024. All the appeals give rise to common question.

3. **Brief facts:**

Respondent No.1 – Karnataka Power Corporation Limited (KPCL) issued a Notification dated 03.08.2017 inviting applications for recruitment to the posts of Assistant Engineer (Electrical), Junior Engineer (Electrical), Assistant Engineer (Mechanical), Junior Engineer (Mechanical), Assistant Engineer (Civil), and Junior Engineer (Civil). The appellants submitted applications for the posts of Junior/Assistant Engineer and appeared for the written examination conducted by Respondent No.1 on 21.01.2018. Respondent No.1, by order dated 23.06.2018, cancelled the written examination held on 21.01.2018. Subsequently, Notification dated 16.07.2018 was issued by Respondent No.1 for the conduct of fresh written examination through the Karnataka Examination Authority (KEA). The cancellation of the earlier examination was challenged by certain candidates in Writ Petition Nos.34850–34874 of 2018. The said writ petitions were dismissed by order dated 01.02.2019, upholding the cancellation. Writ Appeal Nos.802–821 of 2019, filed challenging the said order, were also dismissed by order dated 14.10.2019. The re-examination was conducted by Respondent No.3 – KEA on 18.02.2024, in which the appellants

participated. Respondent No.3 issued a Notification dated 08.05.2024 informing candidates that one-third (1/3rd) mark would be deducted for every wrong answer. Certain candidates filed Writ Petition No.14233 of 2024 challenging the Provisional Score List dated 08.05.2024. The said writ petition was dismissed, holding that the examination conducted on 21.01.2018 had also been subject to negative marking, and that the re-examination held on 18.02.2024 was to be conducted on similar terms, including the application of negative marking. On the same day, Respondent No.3 issued the Final Score List. Respondent Nos.3 to 10 filed Writ Petition No.16517 of 2024 challenging the Final Score List dated 12.06.2024. The said writ petition was also dismissed in light of the order passed in Writ Petition No.14233 of 2024.

4. Learned advocates for the parties have addressed common arguments by referring to the same documents. Hence, these appeals were heard together and are disposed of by common judgment.

Submissions:

5. Learned advocate Mr. M.K. Prithveesh appearing for the appellants in Writ Appeal No.1298 of 2024 made the following submissions.

5.1 The applicability of negative marking was intimated to the candidates only after the written examination, at the time of publication of the Provisional Score List on 08.05.2024. The learned Single Judge has recorded a finding that the candidates, having participated in the written examination, cannot subsequently challenge the introduction of negative marking. The cause of action, if any, arose only after the examination was conducted, and any alleged prejudice to the interest of the writ petitioners occurred thereafter.

5.2 The respondent-authorities had prescribed the condition of negative marking in the examination conducted on 21.01.2018. The said condition was incorporated in the admission ticket as well as in the question booklet issued to the candidates. However, the said examination was subsequently cancelled. Upon conduct of the re-examination, fresh admission tickets were issued containing certain conditions. Similarly, the question booklets issued for the re-examination included specific instructions for candidates. In the examination conducted on 18.02.2024, neither the admission ticket nor the question booklet contained any condition prescribing negative marking. There was not even a reference to the

applicability of negative marking, unlike in the earlier examination conducted on 21.01.2018.

5.3 The rules governing recruitment to the notified posts do not mandate the application of negative marking. There are no other statutory provisions or regulations prescribing such a condition. Even the recruitment Notification pursuant to which the examination was conducted does not contain any clause relating to negative marking. In the absence of any express stipulation to that effect in the examination conducted on 18.02.2024, it is impermissible to imply the applicability of negative marking merely on the basis of its inclusion in the earlier examination.

5.4 The condition of negative marking, being substantive in nature and having a bearing on the entire examination process as well as the manner in which a candidate conducts himself during the examination, ought to be expressly stipulated. In the present case, the negative marking was introduced only after the conclusion of the examination and at the stage of preparation of the Provisional Score List. Such a condition, which materially affects the evaluation process, cannot be introduced retrospectively. The conditions governing the examination cannot be altered after the examination has been conducted.

5.5 There is no authority vested in the respondent authorities to alter or modify the conditions of the examination after its completion.

5.6 Learned advocate in support of his submissions, relied on the following judgments.

- (i) **Bedanga Talukdar vs. Saifudaullah Khan and others, [(2011) 12 SCC 85];**
- (ii) **Sureshkumar Lalitkumar Patel & others vs. State of Gujarat and others, [2023 SCC Online SC 167],**
- (iii) **Dr. Raghavendra H.K. vs. State of Karnataka and others, [2021 SCC Online Kar. 264]; and**
- (iv) **S. Nelson Prabhakar vs. CBSE and another [2019 SCC Online Mad. 26355].**

6. Learned advocate Mr. Neeraj Sastry appearing for the appellants in Writ Appeal No.1018 of 2024 made the following submissions,

6.1 The recruitment notification did not impose any condition of negative marking. The said condition was found only in the question booklet of the first examination. When fresh admission tickets and question booklets were issued for the second/re-

examination, containing specific conditions, the absence of any express stipulation regarding negative marking indicates that such a condition was not intended to apply. In the absence of an express provision, the condition of negative marking cannot be impliedly imported from the first examination. The retrospective application of negative marking, after the completion of the examination, is impermissible.

6.2 The recruitment process commences with the issuance of a notification inviting applications. Thereafter, any change to the prescribed conditions is impermissible. The mere intimation by KPCL to KEA to conduct the examination with negative marking cannot suffice unless the same is formally notified to the candidates. Since negative marking affects the very pattern of the competitive examination, it must be disclosed to the candidates at the outset, enabling them to appropriately prepare and formulate their approach to answering the examination.

6.3 In support of his submissions, learned advocate relied on the following judgments,

- (i) **Bedanga Talukdar vs. Saifudaullah Khan and others, [(2011) 12 SCC 85];**

- (ii) **Sureshkumar Lalitkumar Patel & others vs. State of Gujarat and others, [2023 SCC Online SC 167],**
- (iii) **Tej Prakash vs. Rajasthan High Court and others, [(2025) 2 SCC 1]; and**
- (iv) **Geetha Chavan vs. KPCL and others in W.P.No.202497/2024, dated 12.12.2024.**

7. Learned Senior Advocate Mr. P.S Rajagopal for respondent No.1 submits as under,

7.1 The examining authority is empowered to prescribe such rules as it deems fit for recruitment examinations. The imposition of negative marking was uniformly applied to all candidates appearing for the examination, and therefore, there is no element of arbitrariness in its application.

7.2 Negative marking was imposed to deter guesswork and to ensure the selection of truly deserving candidates. It cannot be said that any prejudice has been caused by the application of negative marking.

7.3 The examination conducted in 2018, which included negative marking, was subsequently cancelled to facilitate a re-examination. The re-examination held on 18.02.2024 was conducted on the

same terms and conditions as the original examination. The first examination expressly stipulated the application of negative marking, and the re-examination was held accordingly without any modification to these terms. There is no requirement to expressly reiterate the negative marking condition in the admission ticket, as it was already known to all candidates. Conversely, in the absence of an express condition, a candidate cannot presume that negative marking is not applicable.

7.4 Since the appellants participated in the first examination with full knowledge of the negative marking condition, they are expected to reasonably assume that the re-examination would also be conducted with the same condition. Furthermore, KEA was formally instructed by way of letter dated 31.01.2024 to conduct the examination with negative marking. Therefore, the decision to apply negative marking was not taken after the examination was conducted. It is also pertinent to note that previous recruitment examinations held in 2014-15 and 2017-18 were conducted applying negative marking.

7.5 The candidates/appellants are estopped from raising objections to the imposition of negative marking after having participated in the examination. There was no reasonable basis for

the candidates to believe that negative marking would not be applicable. KPCL has consistently communicated to KEA the requirement of applying negative marking. The mere absence of such a condition in the instructions issued to the candidates cannot be a ground to challenge the validity of negative marking.

7.6 KPCL provided a helpline to assist candidates in addressing their queries. Furthermore, KPCL informed the candidates who contacted them about the applicability of negative marking. The invigilators supervising the examination were also instructed to inform the candidates about negative marking whenever such queries were raised during the examination.

7.7 Learned advocate in support of his submissions, relied on the following judgments;

- (i) Srinivas K Gouda vs. Karnataka Institute of Medical Sciences and others [(2022) 1 SCC 49],**
- (ii) Tej Prakash Pathak and others vs. Rajasthan High Court and others, [(2025) 2 SCC 1],**
- (iii) Vanshika Yadav vs. Union of India [(2024) 9 SCC 743].**

8. Learned Senior Advocate Mr. D.R. Ravishankar appearing for impleading applicants in I.A.No.7 of 2024 in Writ Appeal No.1298 of 2024 submitted as under,

8.1 The examination conducted on 18.02.2024 was held on the same terms and conditions as those applicable to the examination conducted on 21.01.2018. KPCL provided timely clarification to KEA regarding the application of negative marking.

8.2 The applicants are selected candidates as per the Provisional and Final Selection Lists. The appellants, numbering only fifteen, cannot legitimately challenge the negative marking scheme when approximately 18,000 candidates appeared for the examination.

8.3 The examination conducted on 18.02.2024 was a re-examination, essentially a re-doing of the same exercise. Accordingly, all conditions applicable to the first examination equally apply to the re-examination. The notification pursuant to which the examination on 18.02.2024 was conducted explicitly specified that it was a re-examination. The examination conducted by KEA was carried out in accordance with the prescribed rules, regulations, and methodology of valuation.

8.4 Since the re-examination was conducted on the conditions imposed in the first examination, there were no instructions in the question booklet or admission ticket indicating that 'there will be no negative marking.' Considering that all recruitment examinations conducted by KPCL have incorporated negative marking, it is to be presumed that the re-examination was also subject to negative marking.

8.5 Learned Senior Advocate in support of his submission relied on the following judgment.

(i) Tej Prakash Pathak vs. Rajasthan High court and others, [(2013) 4 SCC 540; and

(ii) Sivanandan C.T. vs. High Court of Kerala and others, [(2024) 3 SCC 799.

9. Learned advocate appearing for the proposed Respondent Nos.4 to 9 in Writ Appeal No.1298 of 2024 submits that the examination conducted on 18.02.2024 was a re-examination held under all the conditions as notified for the examination on 21.01.2018. Therefore, negative marking is applicable to the re-examination. The impleading applicants participated in the examination with the understanding that it would be conducted with

negative marking. There is no reason for the appellants to believe that negative marking would not apply.

9.1. The same set of candidates who appeared for the first examination also appeared for the re-examination and, as a result, were aware of the negative marking. Negative marking is an established practice of KPCL in conducting their recruitment examinations. KPCL has not made any changes to this practice.

9.2. It is submitted that even if the valuation were made without applying negative marking, the appellants would still not be eligible for selection. Their ineligibility, rather than the negative marking, is the true basis for these frivolous writ petitions. It is further submitted that a massive exercise has been undertaken by KPCL, KEA, and the candidates since the recruitment process commenced in 2018. Due to multiple factors, there has been uncertainty in concluding the selection process. The present appeals appear to be attempts to perpetuate this uncertainty. Moreover, the determination of conditions to be imposed as qualifications or eligibility is the prerogative of the employer. Negative marking has been imposed under such authority, and the appellants, having participated in the examination, cannot challenge these conditions. The established practice of applying

negative marking in KPCL's recruitment examinations gives rise to a legitimate expectation; therefore, the appellants' failure to anticipate negative marking cannot be construed as causing prejudice to their rights.

10. Learned advocate, in support of his submissions, relies on the following judgments ,

- (i) **Tej Prakash Pathak vs. Rajasthan High Court in Civil Appeal No.2634 of 2013;**
- (ii) **Sivanandan C.T. and others vs. High Court of Kerala and others, [(2024) 3 SCC 799];**
- (iii) **The Assam Public Service Commission vs. Pranjal Kumar Sarma [(2020) 20 SCC 680];**
- (iv) **Ran Vijay Singh vs. State of U.P., [(2018) 2 SCC 357]; and**
- (v) **Sate of Uttar Pradesh vs. Karunesh Kumar and others, [2022 SCC Online SC 1706].**

11. Having considered the submissions of learned advocates for the parties and perusal of record, the points that arise for consideration in these appeals are,

- (i) Whether the conditions imposed in the examination conducted on 21.01.2018 are applicable to the re-examination held on 18.02.2024?
- (ii) Whether the conditions imposed in the examination conducted on 21.01.2018 can be impliedly applied to the re-examination held on 18.02.2024?
- (iii) When there is no express or implied reference to the conditions of the examination conducted on 21.01.2018 in the notification, question booklet, or admission ticket for the re-examination, can such conditions be applied to the examination held on 18.02.2024?
- (iv) Can the results of the examination held on 18.02.2024, which imposed negative marking without any prior stipulation of such a condition in the rules, regulations governing recruitment, recruitment notification, admission ticket or question booklet, amount to a change in the 'rules of the game'?

Analysis:

Re. Point No.1.

12. Respondent No.1 issued a notification dated 03.08.2017 inviting applications for recruitment to various posts. The examination was conducted on 21.01.2018. Subsequently, the said examination was cancelled by a corrigendum dated 23.06.2018, announcing a re-examination. The respondent authorities issued fresh admission tickets, and the examination was again conducted on 21.01.2018. The admission ticket and question booklet for the examination on 21.01.2018 contained prescribed conditions and instructions. These documents form part of the record. The admission ticket explicitly mentions the instructions on negative marking, as follows:

" There is a negative mark of $1/3^{\text{rd}}$ for every wrong answer. i.e. $1/3^{\text{rd}}$ mark will be deducted for each wrong answer."

Similarly, the instruction regarding negative marking in the question booklet is as follows:

" Correct answer carry one mark each - wrong answers carry negative $1/3^{\text{rd}}$ each and unanswered questions carry no marks."

13. KEA issued admission tickets for the re-examination conducted on 18.02.2024. The question booklet for the re-examination is also on record. Both the admission ticket and question booklet contain instructions for the candidates. Upon careful perusal of these instructions, it is evident that no condition relating to negative marking has been imposed. Furthermore, there is neither any express nor implied indication that the conditions applicable to the examination held on 21.01.2018 apply to the re-examination.

14. The notification dated 03.08.2017 does not prescribe negative marking. The rules governing recruitment and imposing negative marking have not been placed before the Court. Except for the admission ticket and question booklet of the 2018 examination, no other material or document has been produced to justify the imposition of negative marking. On the contrary, the appellants have categorically stated that neither the rules, regulations, nor the recruitment notification prescribe or mandate negative marking, except for the instructions contained in the admission ticket and question booklet of 2018 examination. When queried, the learned advocate appearing for Respondent No.1 candidly admitted that the rules, regulations, and notification do not

prescribe negative marking; rather, it was imposed solely through the instructions to candidates in the admission ticket and question booklet. Given that the question booklet and admission ticket for the 2018 examination ceased to have effect upon completion of that examination, and fresh admission tickets and question booklets were issued for the 2024 examination, the contention of the respondent authorities that the 2024 examination was merely a re-examination to which all conditions applicable to the 2018 examination apply with equal force is unacceptable.

15. Negative marking is a substantive condition governing the pattern of the examination, having significant repercussions on the outcome. Moreover, it fundamentally influences the manner and strategy adopted by the candidate in answering the examination. In this regard, it is pertinent to refer to the judgment of the Hon'ble Supreme Court in **The Assam Public Service Commission vs. Pranjal Kumar Sarma and others**, [(2020) 20 SCC 680], wherein it was held as follows,

13. To deal with the rival submission, the relevant clauses in the process of selection envisaged under the 2019 Procedure, will bear consideration. The concept of negative marking is introduced for the first time under Clause 4(B)(ii) which provides that for each wrong answer, @ 0.25 marks are deducted against each question. Besides the Clause 4(B)(vi) stipulates that marks for the interview shall not exceed 12.2 per cent of the total marks. The screening test in which the Respondents and other

candidates appeared on 30.06.2019 under the 2010 Rules as earlier noted, had no negative marking and, therefore, the candidates could take the risk of guessing the correct answer in the multiple choice test, without the fear of being penalised for incorrect answer.

14. In the above backdrop, if the next segment of selection is to be conducted under the 2019 Procedure, the performance of the candidate in the aforementioned screening test to the extent of 87.8 per cent of the total marks, will determine the final selection of the candidate. The question, therefore, is whether this would be fair on the candidates when the performance of few would be determined more by lucky guess and the real merit may have no role in the aggregate score. The other relevant question is whether the method of selection should be permitted to be changed midway, by adopting the 2019 Procedure incorporated with effect from 01.04.2019 for the vacancies, which were advertised on 21.12.2018.

15. The law with regard to applicability of the Rules which are brought anew during the selection process have been crystallized by this Court. It has been held that the norms existing on the date when the process of selection begins, will control the selection and the alteration to the norms would not affect the ongoing process unless the new Rules are to be given retrospective effect. (See State of Bihar and Ors. v. Mithilesh Kumar MANU/SC/0630/2010 : (2010) 13 SCC 467). Similarly in N .T. Devin Katti and Ors. v. Karnataka Public Service Commission and Ors. MANU/SC/0240/1990 : (1990) 3 SCC157, this Court held that a candidate has a limited right of being considered for selection in accordance with the Rules as they existed on the date of advertisement and he cannot be deprived of that limited right by amendment of the Rules during the pendency of the selection, unless the Rules are to be applied retrospectively.

The Allahabad High Court in **Hemant Krishna Maurya and others**

vs. State of U.P. and others, [(2010) SCC OnLine ALL 1042),

while considering the impact of negative marking held as,

30. The number of questions that a candidate may attempt to answer in a multiple choice question paper depends

largely on whether there will negative marking or not. If there is negative marking, a candidate will naturally attempt to answer only those questions of which he is sure of the answer and may not attempt to answer the remaining questions if he is not sure of the answer to those questions. On the other hand, if there is no negative marking, a candidate will take a chance and attempt to answer all the questions even if he is not sure of the answers. For instance if a candidate, as in the present case, is required to answer 200 multiple choice questions and he is sure about the answers to 100 questions, then if there is negative marking, he will not attempt to answer the remaining 100 questions since answering them may result in decrease of the number of marks that he will secure for answering the 100 questions, but if there is no negative marking, he will like to take a chance and answer the remaining 100 questions also since there will be a possibility of getting some more marks without any risk. The negative marking, therefore, has a direct effect on the number of questions a candidate may answer in the multiple choice question paper and so it is necessary for the authority to make it known to the candidates before the examination whether there will be negative marking or not and if a decision for negative marking has been taken prior to the holding of the examination, such decision cannot be altered after the examination is held. Thus, if the system of negative marking is dispensed with after the holding of Examination, the examination will stand vitiated and cannot be considered as valid for determination of the inter-se "Academic Merit" of the candidates. For this reason alone, the Circular dated 6th April, 2010 deserves to be set aside.

16. The importance of expressly communicating the negative marking condition to candidates attending the examination, in light of the above judgments, leads to the inescapable conclusion that such a condition is substantive and must be explicitly stated. As noted earlier, except in the instructions contained in the admission ticket and question booklet of the 2018 examination, there is no mention of the applicability of negative marking in the 2024

examination. The contention advanced by Respondent No.1 KPCL that the condition applies by implication is untenable for multiple reasons. Firstly, negative marking was imposed only through the admission ticket and question booklet of the 2018 examination; it is neither prescribed in the rules, regulations, nor in the recruitment notification. Moreover, the admission ticket and question booklet issued for the 2018 examination ceased to have effect upon completion of that examination.

16.1 Secondly, an altogether new admission ticket, issued by a different examining authority, was provided for the 2024 examination along with new instructions. The instructions contained in the admission ticket and question booklet for the 2024 examination are conspicuously silent on the applicability of negative marking. Moreover, there is no reference, either express or implied, directing candidates to apply the conditions of the 2018 examination. In the absence of any such express or implied incorporation of the 2018 conditions, the contention of Respondent No.1 that the re-examination in 2024 was governed by the conditions of the 2018 examination merits no consideration and lacks rational basis. The suggestion advanced by Respondent No.1

effectively places the onus on the candidates to presume the applicability of negative marking.

16.2 Another notable aspect emerging from the pleadings of Respondent No.1 is that a helpline was provided to candidates to clarify their doubts, and it is stated that candidates who called were informed about negative marking. It is also contended that invigilators in the examination hall were instructed to inform candidates about negative marking upon query. Such contentions raise serious questions regarding the manner in which the examination was conducted, particularly when approximately 18,000 candidates participated for around 2,000 vacancies.

16.3 Further, the stand that KEA conducted the re-examination and that the omission to mention negative marking was KEA's responsibility, with subsequent justification for applying negative marking, is difficult to accept. The blame-shifting between KEA and KPCL cannot adversely affect the careers of the candidates. The condition of negative marking ought to be prescribed in the rules, regulations, or recruitment notification. If imposed as part of instructions, each admission ticket and question booklet issued by the recruiting or examining authority must expressly and unequivocally disclose the negative marking condition.

17. Upon overall consideration of the foregoing aspects, the only reasonable conclusion that can be drawn is that the conditions imposed in the examination held on 21.01.2018 are not applicable to the re-examination conducted on 18.02.2024.

Re. Point Nos.2 and 3.

18. The examination must be conducted in accordance with the law governing recruitment to public services. Such conditions, whether governing eligibility or the selection process, are often regarded as the 'rules of the game.' It is a settled legal position in service jurisprudence that these rules of the game must not be altered midway or after the game has been played. In the present case, there are no rules or regulations specifically governing negative marking. The recruitment notification dated 03.08.2017 does not stipulate any condition regarding negative marking. Negative marking was introduced solely through instructions contained in the admission ticket and question booklet of the 2018 examination. Such instructions effectively constitute the rules of the game.

18.1 The examination conducted pursuant to the 2018 admission ticket and question booklet was subsequently cancelled to allow for

a re-examination. Respondent No.1 issued a notification to conduct the re-examination on 18.02.2024 through the Karnataka Examinations Authority (KEA) as per the original 03.08.2017 notification. As the examining authority, KEA issued a fresh admission ticket with instructions, and similarly, the question booklet for the re-examination contained instructions directed to the candidates. Notably, neither the admission ticket nor the question booklet for the 2024 re-examination prescribed any condition relating to negative marking.

18.2 In the absence of any specific conditions in the rules, regulations, or recruitment notification, the instructions issued with the admission ticket and question booklet constitute the operative rules of the game. The re-examination was conducted on 18.02.2024 accordingly. It was only on 08.05.2024 that KEA issued a publication announcing that the Provisional Score List had been prepared by applying negative marking, in accordance with the practice followed by KPCL in previous examinations. This notification, coupled with the provisional score list, effectively introduced the negative marking condition. Thus, the rules of the game were altered not during the course of the examination, but after its completion.

19. The necessity of notifying candidates of substantive conditions and the consequential effect on the examination outcome has been addressed in the preceding paragraphs, with reference to the judgment of the Hon'ble Supreme Court. In light of the finding that negative marking constitutes a substantive condition in the recruitment process, it must necessarily be communicated to candidates prior to the commencement of the examination. In the present case, the examination was completed on 18.02.2024, and the intended application of negative marking was disclosed to candidates for the first time only through a press release dated 08.05.2024. The only conclusion that can be drawn is that the rule of negative marking was imposed after the examination had concluded, which is impermissible. Apart from references to the instructions contained in the admission ticket and question booklet of the 2018 examination, no other document has been placed before this Court expressly providing for negative marking. Accordingly, it is held that the conditions applicable to the 2018 examination cannot be impliedly applied to the 2024 re-examination.

Re. Point No.4.

20. As held in the **Assam Public Service Commission** (supra), the norms existing on the date when process of selection begins,

will control the selection and alteration to the norms would not affect the ongoing process unless the new rules are to be given retrospective effect aptly apply to the facts in the present case.

21. A candidate appearing for an examination is entitled to formulate a strategy for answering the questions. The question booklet reveals that the examination was conducted in a multiple-choice question format. In such a scenario, a candidate may choose to answer only when confident or resort to guesswork. In the absence of negative marking, the candidate secures marks solely for correct answers. However, where negative marking is applied, the candidate not only loses marks for wrong answers but also risks reduction of marks against right answer. Knowledge of the existence of negative marking is therefore critical, as it influences the candidate's approach prompting caution and discouraging guesswork, thereby potentially preserving marks for accurately answered questions.

22. The contention urged by Respondent No.1 that negative marking was introduced to eliminate candidates relying on speculative or guess answers, thereby selecting the best among the available meritorious candidates, is not disputed. It is well settled that an employer has the discretion to impose conditions of

recruitment. However, what is absent in the present case is the imposition of the negative marking condition prior to the commencement of the examination. The publication of the Final Score List dated 12.06.2024 by KEA also establishes that KPCL instructed KEA to apply negative marking only while preparing the Final Score List, which was well after the examination date of 18.02.2024. As observed by the Allahabad High Court (*supra*), negative marking directly affects the number of questions a candidate may attempt in a multiple-choice question paper and, therefore, it is imperative that the authority make the existence of such a condition known to the candidates before the examination. The learned advocate for Respondent No.1 was unable to point to any statutory or regulatory provision prescribing negative marking, other than the instructions contained in the admission ticket and question booklet of the 2018 examination. Furthermore, the Karnataka Examinations Authority (KEA) announced the applicability of negative marking only by way of a press release dated 08.05.2024 that is, after the examination was concluded and while preparing the Score List. No enabling statutory provision has been demonstrated that permits alteration of the evaluation criteria by imposing negative marking after the examination has been completed.

23. The Hon'ble Supreme Court in **Tej Prakash Pathak** supra has held that recruitment process commences from the issuance of calling for applications and ends with filling of vacancies. Eligibility criteria notified at the commencement of the recruitment process cannot be changed midway through the recruitment process, unless the extant rules so permit. As held in **Tamilnadu Computer Science B.Ed Graduate Teachers Welfare Society vs. Higher Secondary School Computer Teachers Association and others**, [(2009) 14 SCC 517, reiterated by the Hon'ble Supreme Court in **Sureshkumar Lalitkumar Patel and others vs. State of Gujarat and others**, [2023 LiveLaw (SC) 137], it is not permissible to change qualifying norms after the holding of the examination and at the time when results of the examination was to be announced and thereby, changing the said criteria at the verge of and towards the end of the game and the same is arbitrary and unjustified. In recruitment process, changing rules of the game during selection process or when it is over are not permissible. In **Bedanga Talukdar** supra, the Hon'ble Supreme Court held that, selection process has to be conducted strictly in accordance with the stipulated selection procedure. There cannot be any relaxation in the terms and conditions of the advertisement, unless such

power is reserved. Even if the power of relaxation is provided in the rules, it must still be mentioned in the advertisement and has to be given due publicity to ensure that the candidates are given due opportunity. In the present case, the negative marking condition is neither made known to the candidates expressly nor implied, except drawing a presumption to the conditions in the admission ticket and question booklet of 2018 examination.

24. The reliance on **Tej Prakash Pathak** by learned Senior Advocate appearing for respondent No.1 to contend that change of conditions would not affect the selection process is of no assistance. It is categorically held in the referred judgment that the conditions imposed in the beginning of recruitment process would continue till filling up of vacancies, change of conditions is subject to such empowerment under the rules. Though respondent No.1 is free to impose recruitment conditions in the present case, the condition of negative marking after examination is in the absence of any statutory power, the introduction of negative marking is arbitrary and unjustifiable.

25. Learned Advocate for the impleading applicants, relying on the decision in **Tej Prakash Pathak**, vehemently contended that previous examinations conducted by KPCL incorporated negative

marking and, therefore, it was a legitimate expectation of every candidate that the recruitment process would continue to embed the condition of negative marking. It was further contended that, in the absence of specific rules on the subject, administrative instructions may be issued to supplement and govern the field. This contention is recorded only to be rejected.

26. It is difficult to accept the proposition so canvassed. When a recruiting authority issues a notification inviting applications subject to specific conditions therein, it cannot be incumbent upon the candidate to undertake independent research to ascertain the manner in which prior examinations were conducted. As held in the cited judgment, the recruitment process is to be governed by the conditions notified at its commencement and concludes upon filling the vacancies. In the present case, there is categorical admission on behalf of Respondent No.1 that no rules exist governing negative marking, nor have any administrative instructions been placed on record. The instructions issued to candidates for the 2024 examination are notably silent on the question of negative marking.

Further, Respondent No.1 has failed to demonstrate why the negative marking condition, which was prescribed in the 2018 examination, was not expressly or impliedly incorporated in the 2024 examination. In the absence of any statutory or regulatory provision or any condition in the recruitment notification, it is wholly unreasonable and impermissible to apply negative marking to the 2024 examination by mere inference from the 2018 examination conditions.

27. It is contended by the private respondents that around 18,000 candidates appeared for the 2024 examination, and the results were announced with negative marking; only 12 candidates have approached this Court. Hence, it is argued that public interest prevails over individual rights, and the 2024 examination should not be cancelled. This submission is, however, superfluous.

28. If an examination is required to be conducted, it must be held in accordance with the prescribed rules, regulations, terms, and conditions. An examination conducted otherwise is unsustainable. The number of candidates who have brought the cause before the Court is immaterial; what matters is the cause itself. Once it is established that the examination was not conducted in compliance with the required rules and regulations, the validity of such

examination can be examined, regardless of the number of candidates who participated or the consequences of declaring such examination invalid.

29. The consequences of invalidating the examination and directing a re-examination, and any inconvenience caused to individuals or the administration, are irrelevant. The sole concern of this Court is to remedy the injustice.

30. The judgment in **Karunesh Kumar** (supra) is not applicable to the facts of the present case. However, it is pertinent to note that the principle underlying the prohibition against altering the “rules of the game” once the game has commenced is reiterated therein.

31. Learned Single Judge, upon comparison of the admission tickets and question booklets of the 2018 and 2024 examinations, observed that the 1/3rd negative marking prescribed in 2018 was absent in 2024. Nevertheless, the learned Single Judge proceeded to hold that the 2024 examination was merely a re-examination of the 2018 examination. Since the 2018 examination explicitly notified candidates of negative marking in the admission ticket and question booklet, it was inferred that the re-examination was also subject to the same negative marking condition. Further, it was held that non-application of negative marking would amount to

changing the rules of the re-examination. The learned Single Judge also held that candidates who participated unsuccessfully in the re-examination were not entitled to challenge the applicability of negative marking.

32. The aforesaid findings run contrary to the settled legal principle that the rules of the game cannot be altered after the game has commenced or concluded. The learned Single Judge failed to appreciate that the admission ticket and question booklet of the 2018 examination expressly provided for negative marking, whereas the corresponding documents for the 2024 examination, although specifying certain instructions, were silent on the condition of negative marking. Moreover, there was no reference, either express or implied, to the applicability of the 2018 conditions to the 2024 examination.

33. An important aspect overlooked by the learned Single Judge is that the conditions contained in the 2018 admission tickets and question booklets ceased to have operative effect once that examination concluded. Once the admission ticket and question booklet for the re-examination were issued with new conditions, and in the absence of any express enabling provision, the

applicability of negative marking cannot be inferred from the conditions of the 2018 examination or from the practice of KPCL.

34. As observed earlier, negative marking is a substantive condition which substantially affects the candidate's approach to answering the examination and has significant repercussions on the selection process. Such a condition ought to be expressly stipulated either in the rules, regulations, or administrative instructions. In the absence of any such express provision, it is untenable to presume the existence of such a condition. The learned Single Judge committed an error in not appreciating these crucial aspects.

35. The order of the learned Single Judge suffers from a fundamental error in its finding regarding the entitlement of candidates to approach the Court after the examination. The examination was conducted on 18.02.2024. However, it was only on 08.05.2024 that the respondent issued a press release along with the Provisional Score List, and subsequently on 12.06.2024, issued another press release along with the Final Score List, wherein negative marking was notified for the first time. By that time, the examination had already been completed. The condition

of negative marking ought to have been notified prior to the conduct of the examination.

36. The cause of action to challenge the application of negative marking necessarily arose only after the candidates had participated in the examination and the scores were declared with negative marking applied. The candidates could not have been reasonably expected to presume the applicability of negative marking at a date subsequent to the completion of the examination. The imposition of negative marking after the examination is a subsequent development, which causes prejudice to the candidates' rights. Consequently, the candidates were entitled to seek redressal of their grievance through appropriate proceedings. Therefore, the writ petitions filed by the candidates, irrespective of whether they were successful or unsuccessful in the examination, were fully justified.

37. The learned advocates for the appellants have submitted that Respondent No.3 be directed to re-compute the Score List of the examination conducted on 18.02.2024 without deducting marks for negative marking. This submission cannot be accepted. There is no challenge to the imposition of negative marking per se. The examination held on 21.01.2018, in which the appellants

participated, was conducted with negative marking. The appellants were required to reappear in the 2024 examination following the cancellation of the 2018 examination. The Court has not examined the correctness or necessity of imposing negative marking, and any such exercise would be purely academic. The Court is, however, inclined to issue a direction for conducting the re-examination with negative marking for the additional reason that Respondent No.1 has consistently pleaded that it had applied negative marking in all its previous recruitment examinations by expressly providing such a condition. In light of this settled practice as pleaded, the Court finds no justification to direct Respondent No.1 to prepare the Score List without applying negative marking.

38. The Court makes it clear that its interference with the application of negative marking in the 2024 examination is solely on the ground that such condition was not notified to the candidates prior to the examination, but was imposed only after the examination had concluded. The Court's interference is grounded in the principle that the imposition of an additional condition of negative marking after the examination amounts to a change in the "rules of the game," which has been consistently held by the

Hon'ble Supreme Court to be impermissible. The court has not examined the validity of imposing negative marking.

39. In the light of the finding on the formulated points and the discussion made herein-above, the following order,

Order

- (i) The writ appeals are allowed.
- (ii) The orders of learned Single Judge in Writ Petition No.14233 of 2024 dated 12.06.2024 and in Writ Petition 16517 of 2024 dated 10.07.2024 are set aside.
- (III) The Notification bearing No.ED/KEA/KPCL/2024 the Final Score List dated 12.06.2024 and the Provisional Score List dated 08.05.2024 are hereby quashed.
- (iii) Respondent Nos. 1 to 3 are hereby directed to conduct a re-examination expeditiously and within reasonable time for all candidates appeared in the examination on 18.02.2024 pursuant to the Notification dated 03.08.2017.
- (iv) The re-examination shall be conducted subject to the condition of negative marking, and such condition shall

be expressly communicated to all candidates much before examination.

In view of disposal of the appeals with resultant directions, all pending interlocutory applications do not survive for consideration and stand disposed of accordingly.

**Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

MV