

(2018) 08 UK CK 0232

In the Uttarakhand High Court

Case No : Special Appeal No. 656, 657 Of 2015

**Almora District Cooperative Bank Limited & Others @APPELLANT@Hash
Manoj Kumar & Others**

Date of Decision : 09-08-2018

Acts Referred:

Citation : (2018) 08 UK CK 0232

Hon'ble Judges : Rajiv Sharma, J;Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Sandeep Tiwari, Anil Anthwal, C.S. Rawat, Vikas Pande

Final Decision : Dismissed

Judgement

Rajiv Sharma, J

1. These appeals are instituted against a common judgment dated 14.12.2015 rendered by a learned Single Judge in Writ Petition (S/S) No. 1889 of

2015 and Writ Petition (S/S) No. 2389 of 2015.

2. Key facts necessary for adjudication of these appeals are that the appellant / Bank had issued an Advertisement on 21.10.2014, whereby the

process was initiated for filling-up Class IV posts. The minimum qualification was High School. The Registrar, Cooperative Societies, had prescribed

the procedure on 13.12.2013, whereby, as per Clause 8, the posts were to be filled-up only on the basis of 50 marksâ?? interview. It was also

admitted in the pleadings that retrenched employees, who had already gained experience in Cooperative Bank, will be given one mark for each year of

service, with a maximum of 5 marks.

3. There was absolutely no criterion other than interview. It was all subjective. The procedure for public employment should be based on objectivity

and not subjectivity. Selection merely on the basis of interview is not a

transparent procedure. There should have been other selection criteria, i.e.

educational qualification, experience, etc. and minimum marks for interview. The procedure notified by the Registrar was against the public policy.

One of the candidates, who is a party in one of these appeals, has not participated in the selection process and he has challenged the procedure.

4. In the case of Ashok Kumar Yadav & others vs. State of Haryana & others, reported in (1985) 4 SCC 417, Their Lordships of the Honâ??ble

Supreme Court have held as under:

â??25. Glenn Stahl has pointed out in his book on Public Personnel Administration that the viva voce test does suffer from certain disadvantages such

as the difficulty of developing a valid and reliable oral test, the difficulty of securing a reviewable record of an oral test and public suspicion of the oral

test as a channel for the exertion of political influence and, as pointed out by this Court in Ajay Hasia case (supra), also of other corrupt, nepotistic or

extraneous considerations, but despite these acknowledged disadvantages, the viva voce test has been used increasingly in the public personnel testing

and has become an important instrument whenever tests of personnel attributes are considered essential. Glenn Stahl proceeds to add that â??no

satisfactory written tests have yet been devised for measuring such personnel characteristics as initiative, ingenuity and ability to elicit cooperation,

many of which are of prime importance. When properly employed, the oral test today deserves a place in the battery used by the technical

examiner.â? There can therefore be no doubt that the viva voce test performs a very useful function in assessing personnel characteristics and traits

and in fact, tests the man himself and is therefore regarded as an important tool along with the written examination. Now if both written examination

and viva voce test are accepted as essential features of proper selection in a given case, the question may arise as to the weight to be attached

respectively to them. â??In the case of admission to a college for instanceâ??, as observed by Chinnappa Reddy, J. in Lila Dharâ??s case, â??where

the candidateâ??s personality is yet to develop and it is too early to identify the personal qualities for which greater importance may have to be

attached in later life, greater weight has to be given to performance in the written examinationâ? and the importance to be attached to the

viva voce test in such a case would therefore necessarily be minimal. It was for this reason that in Ajay Haisa's case this Court took the view that the allocation of as high a percentage of marks as 33.3% to the viva voce test was "beyond all reasonable proportion and rendered the selection of the candidates arbitrary". But, as pointed out by Chinnappa Reddy, J., "in the case of services to which recruitment has necessarily to be made from persons of mature personality, interview test may be the only way subject to basic and essential academic and professional requirements being satisfied". There may also be services "to which recruitment is made from younger candidates whose personalities are on the thresh hold of development and who show signs of great promise" and in case of such services where sound selection must combine academic ability with personality promise, some weight has to be given to the viva voce test. There cannot be any hard and fast rule regarding the precise weight to be given to the viva voce test as against the written examination. It must vary from service to service according to the requirement of the service, the minimum qualification prescribed, the age group from which the selection is to be made, the body to which the task of holding the viva voce test is proposed to be entrusted and a host of other factors. It is essentially a matter for determination by experts. The Court does not possess the necessary equipment and it would not be right for the Court to pronounce upon it, unless to use the words of Chinnappa Reddy, J. in Lila Dhar's case "exaggerated weight has been given with proven or obvious oblique motives".

5. Accordingly, there is no illegality or perversity in the impugned judgment rendered by the learned Single Judge, whereby the learned Single Judge has quashed the Advertisement dated 21.10.2014, read with letter dated 13.12.2013. There is no merit in the appeals and the same are dismissed. The State Government is directed to issue instructions to all the Institutions throughout the State of Uttarakhand that no public post shall be filled-up merely on the basis of interview alone.