

(2010) 01 SHI CK 0056
In the High Court Of Himachal Pradesh
Case No : CWP No. 1301 of 2009

Ashu Jethi (Phull) and Another	Vs	APPELLANT
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision : 07-01-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 309, 335
Recruitment and Promotion Rules, 2007 — Rule 15, 15A, 8

Citation : (2010) 01 SHI CK 0056

Hon'ble Judges : R.B. Misra, Acting C.J.;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Since common questions of law and facts are involved in these petitions, the same were taken up together for hearing and are being disposed of by a common judgment. However, the facts of CWP No. 1301 of 2009 are being quoted herein-below to adjudicate these petitions.

2. Material facts necessary for the adjudication of these petitions are that an advertisement was issued by Respondent No. 2 whereby applications were invited for filling up the posts of Lecturers (College Cadre) on contract basis. The advertisement has appeared in the daily Edition of Divya Himachal on 28.8.2008. The screening test was held on 18.12.2008. The candidates were called for viva voce on 25.2.2009. The result was declared on 28.2.2009. Petitioner No. 1 secured 101 and Petitioner No. 2 secured 118 marks out of 150 in the screening test.

3. M/s. Anup Rattan, B.C. Negi, Rajnish Maniktala, Manish Gupta and Mr. Ramakant Sharma appearing on behalf of the Petitioners have vehemently argued that the process of selection for filling up the posts of Lecturer (College Cadre) on contract basis could not be on the basis of interview test alone. In other words, their submission is that the marks of written examination as well as interview should have been taken into consideration while determining the final

merit list of the candidates. It has further been contended that the candidates who have good academic records and have secured more marks in the screening test have been left out and the candidates having less meritorious have been selected. It was further contended that the members of the Selection Committee constituted by the Himachal Public Service Commission (hereinafter referred to as "the Commission" for brevity sake) should have given different marks under separate heads. They have shown reservation to the consensus method adopted by the interview board. They have further contended that the Petitioners were not apprised that the selection will be on the basis of interview alone.

4. Mr. R.K. Sharma, learned Additional Advocate General has supported the entire selection process, which has culminated into the appointment of private Respondents to the post of Lecturer (College Cadre).

5. M/s. Shrawan Dogra and Mr. D.K. Khanna appearing on behalf of Himachal Pradesh Public Service Commission have vehemently argued that the Petitioners have no locus standi to assail the selection process. In other words, their submission is that once the Petitioners have appeared in the screening test and the interview test, they cannot approbate and reprobate. Mr. Dogra has further argued that the selection to the post of Lecturer (College Cadre) on contract basis has been made strictly as per the Recruitment and Promotion Rules notified on 20.9.2007 read in conjunction with Rules of Business of the Himachal Pradesh Public Service Commission, 2007. He then contended that since large number of candidates had applied for the posts in question, the Commission had decided to hold screening test and thereafter merit was drawn on the basis of interview conducted by the Commission. He further contended that the screening test/preliminary examination is permissible under the law to short-list the candidates. He further contended that candidates could be selected merely on the basis of their performance in the interview. He has lastly contended that it was not necessary for the Commission to assign marks under separate heads. He has justified the method adopted by the Commission based on consensus.

6. We have heard the learned Counsel for the parties and have gone through the pleadings carefully.

7. This Court on 29.4.2009 had also directed Respondent No. 2 to specifically answer the following queries:

1. What are the marks allotted to the interview?
2. Whether the interview marks are divided under different sub heads?
3. Whether the members of the interview panel mark the candidates separately or not?
4. If the answer to query number 3 is in the negative, the Secretary to the Commission shall also explain why the each member is not awarding marks separately in the interview and what is the rationale behind the concept of "developing a consensus" during the awarding of marks in the interview?

5. The Secretary shall also clearly state as to whether the marks obtained by the candidates in the written are taken into consideration while preparing the merit list. In case the marks are not being taken into consideration, the Secretary shall explain why this is not being done because this would amount to allot 100% marks for selection to the interview which would be in violation of law laid down by the Hon''ble Apex Court?

8. These queries have been answered by the Commission in the following manner:

1. Total marks allotted to the interview are 100.

2. The interview marks are not divided under different sub heads.

3. The members of the interview board do not allot the marks to the candidates separately as per the provision contained in the Rules of Business of the Commission.

4. As per provision contained in Rule 8(vi) of the Rules of Business of the Commission (Annexure R-2/5), the marks allotted to the candidate are recorded by the Chairman after taking into consideration the views of the Members of the Interview Board.

5. As stated in the foregoing para, the purpose of conducting screening test is not to assess the merit of candidates but to short list the number of candidates, where the number of candidates is fairly large in proportion to the number of vacancies. It is imperative to mention that when the number of candidates is less, the selection is made directly by conducting interviews. There may be a situation where the number of candidates are less, the Commission may decide to call such candidates directly for interview. In the instant selection process in the subjects of Geology, Computer Application and Journalism and Mass Communications there being reasonably less candidates applying for the posts advertised and they were called for interviews directly without conducting screening test in those subjects. In f to have uniformity in the selection method, the marks obtained in the screening test are not taken into consideration while preparing the merit list.

9. Mr. Shrawan Dogra has strenuously argued that the Petitioners cannot be permitted to approbate and reprobate. His precise submission is that the candidates knew throughout that the interview is the sole criteria for filling up the posts in question.

10. Learned Counsel appearing on behalf of the Petitioners have vehemently argued that the Petitioners were only informed that after the screening test, they will be called for interview and they were not apprised that the marks of interview alone will determine the merit for filling up the posts of Lecturers.

11. The question raised by way of preliminary submission is no more res integra in view of the law laid down by their Lordships of the Hon''ble Supreme Court in

the following cases:

12. In *Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others*, their Lordships have held that once the Petitioner has appeared in the examination without protest, the Petitioner was not held entitled to any relief. Their Lordships have held:

23. Moreover, this is a case where the Petitioner in the writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realised that he would not succeed in the examination. The High Court itself has observed that the setting aside of the results of examinations held in the other districts would cause hardship to the candidates who had appeared there. The same yardstick should have been applied to the candidates in the District of Kanpur also. They were not responsible for the conduct of the examination.

13. In *Madan Lal and Others Vs. State of Jammu and Kashmir and Others*, their Lordships of the Hon"ble Supreme Court have held that if a candidate takes a calculated chance and appears in the interview, then because the result of the interview is not palatable to him he cannot turn around and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. Their Lordships have held as under:

Before dealing with this contention, we must keep in view the salient fact that the Petitioners as well as the contesting successful candidates being concerned Respondents herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The Petitioners also appeared at the oral interview conducted by the concerned Members of the Commission who interviewed the Petitioners as well as the concerned contesting Respondents. Thus the Petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. In the case of *Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others*, , it has been clearly laid down by a Bench of three learned Judges of this Court that when the Petitioners appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a Petitioner.

14. In *Union of India and Another Vs. N. Chandrasekharan and Another*, their Lordships of the Hon"ble Supreme Court have held that when the selection procedure is made known to the candidates before selection, unsuccessful

candidates are not entitled to challenge it afterwards. Their Lordships have held as under:

13. We have considered the rival submissions in the light of the facts presented before us. It is not in dispute that all the candidates were made aware of the procedure for promotion before they sat for the written test and before they appeared before the Departmental Promotion Committee. Therefore, they cannot turn around and contend later when they found they were not selected by challenging that procedure and contending that the marks prescribed for interview and confidential reports are disproportionately high and the authorities cannot fix a minimum to be secured either at interview or in the assessment on confidential report.

15. In *Vijay Syal and Another Vs. State of Punjab and Others*, their Lordships have held that when candidates knowing well the criteria fixed for selection and allocation of marks appeared in interview, on being unsuccessful cannot be allowed to challenge the same criteria. Their Lordships have held as under:

12. As can be seen from the difference of marks secured by the candidates in interview, it does not appear abnormal or per se does not smell of any foul play or does not appear patently arbitrary. The lowest of the marks given in the interview are 11.5 and the highest are 22.87. Further marks secured in the interview and the marks secured in written test are also not grossly disproportionate. This apart, out of total marks of 240, only 25 marks were earmarked for interview. So 25 marks for interview out of 240 as against 200 for written test and 15 marks for qualification and other activities do not admit an element of arbitrariness or give scope for use of discretion by members of the interview Committee recklessly or designedly in giving more marks to show favour in interview so as to give an advantage or march to an undeserving candidate of their over others who had shown extraordinary merit in written test. From the chart, we find among the candidates, marks secured in the written test were between 119 to 128 except in one case belonging to Scheduled Castes were 114. This apart, the marks secured in the interview are based on the assessment of the Interview Committee. Normally, it is not for the court to sit in judgment over such assessment and particularly in the absence of any mala fides or extraneous considerations attributed and established. The interview marks of 25 as against total marks of 240, cannot be taken as excessive. It comes to 10.4%. Possibly the selection would have been vitiated, if the marks for interview were 100, as against 150 marks for written test as sought to be made out. Unfortunately, for the Appellants, their misrepresentation in this regard, is unfolded very clearly as already stated above. Further, the Appellants, knowing the criteria fixed for selection and allocation of marks, did participate in the interview; when they are not successful, it is not open to them to turn around and attack the very criteria. The High Court in the impugned order has found that the criteria contained in Annexure R-1 filed in the writ petition was published and that such criteria was adopted earlier also in respect of other selections.

16. In *Dhananjay Malik and Others Vs. State of Uttaranchal and Others*, , their Lordships have held that unsuccessful candidates posing challenge that recruitment was not done according to statutory rules are estopped from challenging the selection criteria. Their Lordships have held as under:

7. It is not disputed that the writ Petitioners-Respondents herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as B.P.E. or graduate with diploma in physical education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement and selection with regard to requisite educational qualifications were contrary to the Rules.

9. In the present case, as already pointed out, the writ Petitioners-Respondents herein participated in the selection process without any demur; they are estopped from complaining that the selection process was not in accordance with the Rules. If they think that the advertisement and selection process were not in accordance with the Rules they could have challenged the advertisement and selection process without participating in the selection process. This has not been done.

17. In a recent judgment in *Amlan Jyoti Borooah Vs. State of Assam and Others*, their Lordships have held that a candidate who has subjected himself to faulty selection, he cannot question it later on. Their Lordships have held as under:

23. The State in an emergent situation would subject to constitutional limitations is entitled to take a decision which subserve a greater public interest. While saying so, we are not unmindful of the fact that the Constitution also demands that candidates who had acquired eligibility for recruitment to the post in the meantime should also be given opportunities to participate in the selection process. This Court times without number had lamented the lackadaisical attitude on the part of the State to treat the matter of selection for appointment to services in a casual and cavalier manner. If no appointment could be made from 1997 to 2001, it is the State alone who could thank itself therefor, but, unless there exists a constitutional or a statutory interdict so as to compel the Superior Court to set aside the selection which has otherwise been validly made; in exercise of their power of judicial review the same would not ordinarily be interfered therewith.

18. Learned Counsel appearing on behalf of the Petitioners have relied upon *Raj Kumar and Others Vs. Shakti Raj and Others*, to rebut the preliminary submissions made by Mr. Shrawan Dogra. In this case, the selection process suffered from glaring illegality and the candidate appearing for selection and remaining unsuccessful were not barred from questioning the selection.

19. Mr. Rajnish Maniktala has also relied upon the following judgments: *Lila Dhar Vs. State of Rajasthan and Others*, ; *Mohinder Sain Garg Ors. Vs. State of Punjab and Others*, ; *Ashok alias Somanna Gowda and Another Vs. State of Karnataka*

by its Chief Secretary and Others, ; P. Mohanan Pillai Vs. State of Kerala and Others, ; Fazilka Coop. Sugar Mills Vs. Jatinder Kumar Gupta and Another, and Jasvinder Singh and Others Vs. State of Jammu & Kashmir and Others, In these cases, the Petitioners had assailed the disproportionate marks allotted to the interview when the written as well as interview test was prescribed.

20. Normally, candidates who have appeared and are unsuccessful are precluded from assailing the criteria. However, in the present case we have heard the Petitioners on merits of the case since important questions of law are involved.

21. In order to adjudicate these petitions effectively, it will be appropriate to refer to the Recruitment and Promotion Rules framed by the State under Article 309 of the Constitution of India. These Rules are called "Himachal Pradesh Higher Education Department, Lecturer (College Cadre) Class-I (Gazetted) Recruitment and Promotion Rules, 2007 (hereinafter referred to as "the rules" for brevity sake). Rule 15-A prescribes the methodology for selection for appointment for the post by contract. The candidates, who are appointed on contract basis are to be engaged for one year, which may be extendable for two more years on year to year basis. The Principal Secretary/Secretary (Higher Education) is required to place the requisition with the Commission. The following selection process has been prescribed under the rules for filling up the post, which reads thus:

Selection Process:

Selection for appointment to the post in the case of Contract Appointment will be made on the basis of viva-voce test or if considered necessary or expedient by a written test or practical test the standard/syllabus etc. of which will be determined by the concerned recruiting agency i.e. H.P. Public Service Commission, Shimla.

22. In the present case, the State Government had decided to fill up the posts on contract basis. The posts were advertised. The Petitioners alongwith other candidates had applied for the posts. They have appeared in the screening test and were called for interviews.

23. Respondent No. 2 has also framed the rules called "the Rules of Business of the Himachal Pradesh Public Service Commission, 2007. Chapter-III thereof lays down the procedure for filling up the posts of Class-I and Class-II by direct recruitment. Chapter-V of the rules provides for written/screening test, interviews and declaration of results. The relevant Rule 8(i), (ii), (iii), (iv), (v), (vi) and (vii)(a) and (b) are reproduced as under:

(i) Written Test: The written competitive examinations for recruitment to the posts of H.P. Administrative Services etc., H.P. Judicial Service, H.P. Forest Service and Rangers which are required to be filled up by the Commission annually will be held on the basis of the provision of Recruitment and Promotion Rules for the respective Services. Normally more than 25 days time shall be given to the candidates so that they may prepare themselves for the

examination. The notice of examination dates fixed shall be published in the newspaper and Himachal Pradesh Gazetteer before the commencement of written examination.

(ii) Screening Test : In cases where the number of eligible candidates for the post(s) advertised by the Commission is inordinately large, the Commission may restrict the candidates to be called for interview by subjecting all the eligible candidates to a screening test. The screening test may be of two hours duration and ten minutes time may be allowed to the candidates for entering into the examination hall. The result of the screening test as far as possible be declared within one month or early depending upon the circumstances and number of candidates after the test is over. Normally 6 candidates are declared qualified for a single post and three candidates for every subsequent post. But in case of Scheduled Castes/Scheduled Tribes candidates it should depend upon the number of candidates. If the number of candidates is fewer in a particular category, all of them will be called for interview. Minimum pass marks in interview test are 45 for general category and 35 marks for reserved category.

(iii) Interview: The candidates declared successful/ qualified in the written competitive examination/ screening test shall be called for interview/viva-voce test as per provision of Recruitment and Promotion Rules of the respective services and criteria fixed by the Commission. In the cases where the number of eligible candidates are below thirteen against one post advertised by the Commission shall be called direct for interview.

(iv) Where selection is made through competitive examination i.e. marks obtained in written examination and interview are added in final selection, the candidates scoring more marks in the compulsory papers of the written examination will be placed above the candidates who score less marks in such papers. If in the examination all papers are compulsory then total marks obtained in all the papers shall be taken into consideration. In case the marks of written examination and interview are equal then the candidate who is senior in age will be placed above the candidate junior in age.

(v) Where selection is made by the interview of candidates qualified in the screening test, the candidate scoring more marks in the interview shall be placed above the candidates scoring less marks in the interview. If candidate score equal marks in interview, then the candidate securing more marks in screening test will be placed above the candidate securing less marks in the screening test. In case the marks of screening test are equal then the candidate who is senior in age will be placed above the candidate junior in age.

(vi) A Member of the Commission shall ordinarily preside over the Interview Board set up for selection of candidates through either of the methods described in para-I above, and such Member shall act as the Chairman of the Interview Board, provided that, where more than one Member sit on the same Interview Board, the senior most Member shall act as Chairman of the Board, except in

cases where the Chairman of the Commission himself, sits on the Interview Board alongwith one or more Members, and in case of other Boards constituted without a Member, the nominee of the Chairman shall preside.

(vii)(a) The Interview Board shall be constituted by the Chairman and will, in addition to the Experts and the Departmental Representatives, comprise of as many Members as are deemed fit in view of the class of post for which the interviews are being conducted. The marks allotted to the candidates in the interview shall be recorded by the Chairman in ink after taking into consideration the views of the Members of the Interview Board and the Members of the Commission participating in the interview shall put their signatures on the Interview Sheet in ink.

(b) The Interview Form thus signed and the interview sheet thus signed by all the Members comprising the Board shall on the same day be sealed by an Officer of the Commission, either the Secretary of the Commission or an Officer lower in rank to the Secretary duly nominated by the Chairperson, of the Commission in the presence of all these Members comprising the Interview Board and all such Forms and sheets should be kept in the safe custody of the Secretary of the Commission to be acted upon and used as and when required.

24. A bare perusal of these rules makes it abundantly clear that the screening test is permissible in cases where the number of eligible candidates for the post(s) advertised by the Commission is inordinately large. It is further stipulated in the rules that the candidates declared successful/qualified in the written competent examination/screening test shall be called for interview/viva-voce test as per provision of Recruitment and Promotion Rules of the respective services and criteria fixed by the Commission. In case where selection is made by the interview of candidates qualified in the screening test, the candidate scoring more marks in the interview shall be placed above the candidates scoring less marks in the interview. The selection process for filling up the posts of Lecturers on contract basis is that it can be made on the basis of viva-voce test or if considered necessary or expedient by a written test or practical test the standard/syllabus etc. of which will be determined by the concerned recruiting agency i.e. Himachal Pradesh Public Service Commission, Shimla.

25. Mr. Shrawan Dogra has vehemently argued that strictly as per the Recruitment and Promotion Rules, it was decided by the Commission to fill up the posts by restricting the zone of consideration by conducting screening test and thereafter to interview the candidates. Learned Counsel appearing on behalf of the Petitioners have assailed the method adopted by the Commission.

26. It is provided in the Rules of Business of the Himachal Pradesh Public Service Commission, 2007, as reproduced hereinabove, that the screening test can be conducted by the Commission where the number of eligible candidates for the post(s) advertised by the Commission is inordinately large. This method is duly recognized under the service jurisprudence.

27. Their Lordships of the Hon^{ble} Supreme court in Government of Andhra Pradesh Vs. P. Dilip Kumar and Another, have held that screening a candidate for consideration at the threshold of the process of selection is neither illegal nor unconstitutional if a legitimate field demarcating the choice by reference to some rationale formula is carved out. Their Lordships have held as under:

15. The second decision to which our attention was invited is a judgment of a learned Single Judge of the Gujarat High court in Gujarat State Sales Tax Non-Gazetted Employees' Association v. State of Gujarat. In that case 120 posts of Sales Tax Inspectors were required to be filled in by direct selection. An advertisement was issued in the newspapers and as many as 15,000.00 candidates applied in response thereto. This necessitated screening of the candidates at the threshold. It was found that more than 1,000.00 applicants were holding first class degrees in different faculties of recognised Universities; 580 of them were first class Commerce graduates, 101 first class Arts graduates and about 500 first class Science graduates. Having regard to the number of vacancies the field of choice was restricted to first class graduates only and it was decided not to call for interview a second class or third class graduate including graduates having Commerce degree with Accountancy as a subject. It was this decision which was put in issue before the learned Single Judge by candidates who were eliminated at the threshold from consideration. The relevant rule provided that the appointment to the post of Sales Tax Inspectors shall be made either (a) by direct selection or (b) by promotion. Insofar as direct selection was concerned, the educational qualification required was stated to be a degree of a recognised University. The proviso laid down as under:

Provided that preference shall be given to a candidate who possesses the degree of B. Com with Accountancy or Chartered Accountants, or possesses a qualification recognised to be equivalent to such examination by the government of Gujarat.

In the context of this preference rule it was observed in para 7 of the judgment as under:

To hold that the rule of preference was enacted to give to Commerce graduates with Accountancy or to candidates having other prescribed qualifications an absolute preference over the graduates of other faculties would be to denude the substantive provision of much of its force and effect and to covert the rule of preference into a rule of reservation thereby obliterating altogether the right of other candidates possessing degree of recognised Universities in various other faculties to be considered for the post.

It is true that notwithstanding the preference rule it is always open to the recruiting agency to prescribe a minimum eligibility qualification with a view to demarcating and narrowing down the field of choice with the ultimate objective of permitting candidates with higher qualifications to enter the zone of consideration. It was, therefore, held that screening a candidate out of

consideration at the threshold of the process of selection is neither illegal nor unconstitutional if a legitimate field demarcating the choice by reference to some rationale formula is carved out. Thus the challenge based on Articles 14/16 of the Constitution was repelled. We are in agreement with the ratio of this decision and that is enough to negative the claim of candidates who had preferred O.A. Nos. 1736 to 1739 of 1990 and who were not called for interview on their failing to secure the minimum qualifying marks in the written test.

28. The Apex Court in *Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another*, has held that where the selection is to be made only on the basis of interview, the Commission or the Selection Board can adopt any rational procedure to fix the number of candidates who should be called for interview.

29. The Apex Court in *Mohd. Riazul Usman Gani and Others Vs. District and Sessions Judge, Nagpur and Others*, has held that laying of criteria when there are a large number of candidates is permissible but that criteria must be reasonable and not arbitrary having regard to the post for which recruitment is made. Their Lordships have held as under:

13. Laying of criteria when there are large number of candidates is permissible but that criteria must be reasonable and not arbitrary having regard to the post for which recruitment is made.

30. In a recent judgment, the Apex Court has held in *A.P. Public Service Commission Vs. Balaji Badhavath and Others*, has held that preliminary examination is not a part of main examination. Their Lordships have held as under:

25. Indisputably, the preliminary examination is not a part of the main examination. The merit of the candidate is not judged thereby. Only an eligibility criterion is fixed. The papers for holding the examination comprise of General Studies and Mental Ability. Such a test must be held to be necessary for the purpose of judging the basic eligibility of the candidates to hold the tests. How and in what manner the State as also the Commission would comply with the constitutional requirements of Article 335 of the Constitution of India should ordinarily not be allowed, to be questioned.

31. In view of the definitive law laid down by their Lordships of the Hon'ble Supreme Court, there is no illegality in the action of the Commission to hold screening test. It was permissible as per the Rules of Business of the Himachal Pradesh Public Service Commission, 2007 framed by the Commission. The marks obtained by the candidate in the screening test cannot be considered along with interview. The candidates, who had been short-listed have only been permitted to sit in the interview/viva-voce examination. The merit was to be drawn on the basis of the performance of the candidates in the interview/viva voce examination alone.

32. Learned Counsel appearing on behalf of the Petitioners have vehemently argued that it was not open to the Commission to adjudge the suitability of the candidates for the posts of Lecturers only on the basis of marks secured in the interview board. Mr. Dogra has supported the decision of the Commission to adjudge the suitability of the candidates on the basis of the interview test alone.

33. We have already seen the rule position in this case. It is permissible under the rules to adjudge the suitability of the candidate merely on the basis of viva-voce examination or written examination/practically test to be determined by the Commission. The Commission in its own wisdom has decided to adjudge the suitability merely on the basis of the interview test after holding the screening test as per the Recruitment and Promotion Rules notified in the year 2007. It is always open to the employer or Commission/Selection Board to fill up the posts merely on the basis of the performance of the candidates in the interview board. However, the method adopted should be transparent and not violative of Articles 14 and 16 of the Constitution of India. The holding of interview test alone will also be relevant after taking into consideration the nature of the post in question. In the present case, the candidates have already been screened out and thereafter their suitability has been adjudged by looking into the personality and academic achievements. The importance of interview in the selection process has been highlighted in *Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others*, . Their Lordships have found no fault in the methodology of "interview". Their Lordships have held as under:

10. We may dispel two mystiques before we debate the real issues. Did the Selection Committee act illegally in resorting to the interview process to pick out the best? We think not. Any administrative or quasi-judicial body clothed with powers and left unfettered by procedures is free to devise its own pragmatic, flexible and functionally viable processes of transacting business subject, of course, to the basics of natural justice, fair play in action, reasonableness in collecting decisional materials, avoidance of arbitrariness and extraneous considerations and otherwise keeping within the leading strings of the law. We find no flaw in the methodology of "interviews". Certainly, cases arise where the art of interviewing candidates deteriorates from strategy to strategem and undetectable manipulation of results is achieved by remote control tactics masked as viva voce tests. This, if allowed, is surely a sabotage of the purity of proceedings, a subterfuge whereby legal means to reach illegal ends is achieved. So it is that courts insist, as the learned single Judge has, in this very case, suggested on recording of marks at interviews and other fair checks like guidelines for marks and remarks about candidates and the like. If the court is skeptical, the record of the selection proceedings, including the notes regarding the interviews, may have to be made available. Interviews, as such, are not bad but polluting it to attain illegitimate ends is bad. Dr. Martin Luther King Jr. was right when he wrote: (The Negro is your Brother by Martin Luther King Jr. published in "119 years of the Atlantic" ed. by Louise Desaulniers, p. 515.)

So I have tried to make it clear that it is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong, or even more, to use moral means to preserve immoral ends.

34. In *Lila Dhar Vs. State of Rajasthan and Others*, their Lordships have held that the written examination assesses the man's intellect and the interview test the man himself and "the twain shall meet" for a proper selection. Their Lordships have further held that there cannot be any rule of thumb regarding the precise weight to be attached respectively to the written test and the interview. It must vary from service to service according to the requirement of the service to which recruitment is made, the source-material available for recruitment, the composition of the interview board and several like factors. Their Lordships have held as under:

6. Thus, the written examination assesses the man's intellect and the interview test the man himself and "the twain shall meet" for a proper selection. If both written examination and interview test are to be essential features of proper selection. the question may arise as to the weight to be attached respectively to them. In the case of admission to a college. for instance. where the candidate'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 perforce to be given to performance in the written examination. The importance to be attached to the interview test must be minimal. That was what was decided by this Court in *Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others*, *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, and other cases. On the other hand. 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. To subject such persons to a written examination may yield unfruitful and negative results. apart from its being an act of cruelty to those persons. There are, of course many services to which recruitment is made from younger candidates whose personalities are on the threshold of development and who show signs of great promise. and the discerning may in an interview test. catch a glimpse of the future personality. In the case of such services. where sound selection must combine academic ability with personality promise. some weight has to be given. though not much too great weight. to the interview test. There cannot be any rule of thumb regarding the precise weight to be given. It must vary from service to service according to the requirements of the service, the minimum nullifications-prescribed, the age group from which the selection is to be made, the body to which the task of holding the interview test is proposed to be entrusted and a host of other factors. It is a matter for determination by experts. It is a matter for research. It is not for Courts to pronounce upon it unless exaggerated weight has been given with proven or obvious oblique motives. The Kothari Committee also suggested that in view of the obvious importance of the subject, it may be examined in detail by the Research Unit of the Union Public Service Commission.

9. Both the cases cited before us *Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others*, and *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, were cases of admission to colleges. We have already pointed out that the provision for marks for interview test need not and cannot be the same for admission to colleges and entry into public services. In fact in *Periakaruppan's* case. even in the case of college admissions the Court observed: (at p. 2307 of AIR)

While we do feel that the marks allotted for interview are on the high side and it may be appropriate for the Government to reexamine the question, we are unable to uphold the contention that it was not within the power of the Government to provide such high marks for interview or that there was any arbitrary exercise of power.

It is true that in *Periakaruppan's* case the Court held that the non-allocation of marks under various heads in the interview test was illegal but that was because the instructions to the Selection Committee provided that marks were to be awarded at the interview on the basis of five distinct tests. It was thought that the failure to allocate marks under each head or distinct test was an illegality. But, in the case before us. the rule merely and generally indicates the criteria to be considered in the interview test without dividing the interview test into distinct. if we may so call them. sub-tests. We do not think that *Periakaruppan's* case, which as we said deals with admission to a college. affords any true guidance to us. *Ajay Hasia's* case was also a case of admission to a college. The Court while upholding the interview test as not irrational or irrelevant though unsatisfactory and capable of abuse. made the following observation (at p. 501 of AIR).

We would. however, like to point out that in the matter of admission of colleges or even in the matter of public employment, the oral interview test as presently held should not be relied upon as an exclusive test. but it may be resorted to only as an additional or supplementary test and, moreover, great care must be taken to see that persons who are appointed to conduct the oral interview test are men of high integrity, calibre and qualification.

The Court then proceeded to consider the next question raised before them, whether the allocation of 33 1/2 per cent of the total marks for the interview test vitiated the selection procedure as arbitrary and unreasonable. It was held that it did and reference was made to the fact that even for selection of candidates for the Indian Administrative Service the marks allocated for the interview test were only 12.2 per cent of the total. It was then observed. "under the existing circumstances. allocation of more than 15% of the total marks for the oral interview would be arbitrary and unreasonable and would be liable to be struck down as constitutionally invalid." The observations of the Court were made. primarily. in connection with the problem of admission to colleges. where, naturally. academic performance must be given prime importance. The words "or even in the matter of public employment" occurring in the first extracted passage

and the reference to the marks allocated for the interview test in the Indian Administrative Service examination were not intended to lay down any wide general rule that the same principle that applied in the matter of admission to colleges also applied in the matter of recruitment to public services. The observation relating to public employment was per incuriam since the matter did not fall for the consideration of the Court in that case. Nor do we think that the Court intended any wide construction of their observation. As already observed by us the weight to be given to the interview test should depend on the requirement of the service to which recruitment is made, the source material available for recruitment, the composition of the interview Board and several like factors. Ordinarily recruitment to public services is regulated by rules made under the proviso to Article 309 of the Constitution and we would be usurping a function which is not ours. If we try to redetermine the appropriate method of selection and the relative weight to be attached to the various tests. If we do that we would be rewriting the Rules but we guard ourselves against being understood as saying that we would not interfere even in cases of proven or obvious oblique motive. There is none in the present case. The Writ Petition is therefore dismissed but in the circumstances there will be no order regarding costs.

35. In *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, their Lordships have held that 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 shall 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. Their Lordships have held as under:

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 and Others Vs. Khalid Mujib Sehravardi and Others*, 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 personal attributes are considered essential. Glenn Stahl proceeds to add that "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." 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. "In the case of admission to a college for instance", as observed by Chinnappa Reddy. J. in *Lila Dhar Vs. State of Rajasthan and Others*, . "where the candidate'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 perforce to be given to performance in the written examination" 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 Hasia'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 threshold 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 *Liladhar's* case "exaggerated weight has been given with proven or obvious oblique motives."

26. We may now, in the background of this discussion, proceed to consider whether the allocation of as high a percentage of marks as 33.3% in case of ex-service officers and 22.2% in case of other candidates, for the viva voce test renders the selection process arbitrary. So far as ex-service officers are concerned, there can be no doubt that the percentage of marks allocated for the viva voce test in their case is unduly high and it does suffer from the vice of arbitrariness. It has been pointed out by the Division Bench in a fairly elaborate discussion that so far as the present selections in the category of ex-service officers are concerned, the spread of marks in the viva voce test was inordinately high compared to the spread of marks in the written examination. The minimum marks required to be obtained in the written examination for eligibility for the viva voce test are 180 and as against these minimum 180 marks, the highest marks obtained in the written examination in the category of ex-service officers were 270, the spread of marks in the written examination thus being only 90

marks which works out to a ratio of 22.2%. But when we turn to the marks obtained in the viva voce test, we find that in case of ex-service officers the lowest marks obtained were 20 while the highest marks secured were 171 and the spread of marks in the viva voce test was thus as wide as 151 in a total of 200 marks, which worked out to an inordinately high percentage of 76. The spread of marks in the viva voce test being enormously large compared to the spread of marks in the written examination, the viva voce test tended to become a determining factor in the selection process, because even if a candidate secured the highest marks in the written examination he could be easily knocked out of the race by awarding him the lowest marks in the viva voce test and correspondingly, a candidate who obtained the lowest marks in the written examination could be raised to the topmost position in the merit list by an inordinately high marking in the viva voce test. It is therefore obvious that the allocation of such a high percentage of marks as 33.3% opens the door wide for arbitrariness and in order to diminish, if not eliminate, the risk of arbitrariness, this percentage needs to be reduced. But while considering what percentage of marks may legitimately be allocated for the viva voce test without incurring the reproach of arbitrariness, it must be remembered that ex-service officers would ordinarily be middle aged persons of mature personality and it would be hard on them at that age to go through a long written examination involving 8 subjects and hence it would not be unfair to require them to go through a shorter written examination in only 5 subjects and submit to a viva voce test carrying a higher percentage of marks than that might be prescribed in case of younger candidates. The personalities of these ex-service officers being fully mature and developed, it would not be difficult to arrive at a fair assessment of their merits on the basis of searching and incisive viva voce test and therefore in their case, the viva voce test may be accorded relatively greater weight. But in any event the marks allocated for the viva voce test cannot be as high as 33.3%.

36. In *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, their Lordships have held that the percentage of 33% in case of ex-service officers and 22.2% in case of other candidates for the viva voce test for selection to Haryana Civil (Executive Branch) and Allied Services is unreasonable and renders the selection process arbitrary. In this case the marks of written examination and viva voce were to be taken into consideration.

37. In *Ashok alias Somanna Gowda and Another Vs. State of Karnataka by its Chief Secretary and Others*, have held the allotment of 33.3 per cent of the total marks excessive and arbitrary. In this case also the marks of written examination and viva-voce were to be taken into consideration.

38. In *D.V. Bakshi and others etc. etc. Vs. Union of India and others*, have held that no fix limit could be prescribed for allotment of maximum marks available in oral test. Higher marks can be allotted in case of selection of professionals.

39. In *Anzar Ahmed Vs. State of Bihar and others*, their Lordships have held that decision in *Ashok alias Somanna Gowda* case cannot be construed to mean that

the principles which govern the allocation of marks for interview in a selection based on written and viva-voce test would also apply to a selection where no written test is held but the selection is based on interview only. Their Lordships have held as under:

8. We may now examine the question regarding the validity of the fixation of 100 marks, i.e., 50%, for the interview. The High Court has held the same to be arbitrary and has placed reliance on the decisions of this Court. In this context it may be mentioned that the decisions of this Court with regard to the fixation of marks for interview in a selection broadly fall in two categories:

- i) Selection for admission to educational institutions; and
- ii) Selection for employment in service.

10. In the context of selection for appointment to Public Service, viz.. Rajasthan Judicial Service, the question was considered by this Court in *Lila Dhar Vs. State of Rajasthan and Others*, . Under the relevant rules selection was to be made on the basis of a written examination carrying 300 marks and viva voce examination carrying 100 marks. There was thus allocation of 25% of the total marks for viva voce examination. The said allocation was upheld as valid. Making a distinction between selection for the purpose of admission to a college and selection for appointment to service, this Court (Chinnappa Reddy, J.) has observed:

If both written examination and interview test are to be essential features of proper selection, the question may arise as to the weight to be attached respectively to them. In the case of admission to a college, for instance, where the candidate'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 per force to be given to performance in the written examination. The importance to be attached to the interview test must be minimal. That was what was decided by this Court in *Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others*, *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, and other cases. On the other hand, 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. To subject such persons to a written examination may yield unfruitful and negative results, apart from its being an act of cruelty to those persons (pp. 326-27) (of SCR): (at p. 1780 of AIR).

14. These observations would indicate that the matter of weight to be attached to interview and the allocation of marks for interview vis-a-vis marks for written examination can arise when written examination as well as viva voce test are both accepted as essential features of proper selection and there also no hard and fast rule regarding the precise weight to be given to the viva voce test as against written examination, can be laid down and the said weight must vary from service to service according to the requirement of the Service. The question

of weight to be attached to viva voce would not arise where the selection is to be made on the basis of interview only. In *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, this Court has held that in the case of ex-Service Officers viva voce test may be attached relatively greater weight because the personalities of such officers being fully mature and developed it would not be difficult to arrive at a fair assessment of their merits on the basis of searching and incisive viva voce test: But at the same time the Court felt that the allocation of 33.3% marks for viva voce test for ex-Service Officers and 22.2% for other candidates was excessive and that the same should not exceed 25% for ex-service officers and 12.2% for other candidates.

19. The High Court has placed reliance on the decision of this Court in *Ashok alias Somanna Gowda and Another Vs. State of Karnataka by its Chief Secretary and Others*, . In that case selection was made for the post of Assistant Engineer (Civil) and (Mech.) for the Public Works Department and the said selection was made on the basis of the marks obtained in the qualifying examination and the marks secured in the interview. 100 marks were allocated for qualifying examination and 50 marks for interview. Relying on the decisions in *Mohinder Sain Garg Ors. Vs. State of Punjab and Others*, and *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, this Court held that allocation of 50 marks for interview was high and only 15 per cent. of total marks be allocated for interview. In that case, however, this Court did not quash the selection that had been made and did not also quash the rules on the basis of which the impugned selection had been made but only directed that the Appellants be appointed in case they were found suitable in all other respects according to the rules. The said decision appears to have been given in the particular facts of that case and it cannot be said to have laid down a law different from that laid down in the earlier decisions of this Court referred to above. We are unable to construe the said decision to mean that the principles which govern the allocation of marks for interview in a selection based on written and viva voce test would also apply to a selection where no written test is held and the selection is based on interview only.

20. In the instant case, we find that the State Government in its letter dated September 20, 1990 has clearly stated that selection should be made on the basis of interview. On the basis of this letter the Commission could have made the selection wholly on the basis of marks obtained at the interview. But in accordance with the past practice, the Commission has made the selection on the basis of interview while keeping in view the academic performance and with that end in view the Commission has allocated 50% marks for academic performance and 50% marks for Interview. It cannot be held that the said procedure adopted by the Commission suffers from the vice of arbitrariness. By giving equal weight to academic performance the Commission has rather reduced the possibility of arbitrariness.

40. In *Kiran Gupta and Others Vs. State of U.P. and Others Etc.*, their Lordships

have held that the selection solely based on interview is not per se illegal. Their Lordships have held as under:

19. Sub-rule (3), quoted above, directs that the Commission shall hold interviews of the candidates for each category of posts and prepare a panel of those found suitable for appointment in order of merit as disclosed by the marks obtained by them in the interview. The panel for the posts of Principals/Headmasters has to be prepared institutionwise keeping in view the preference given by the candidates, if any, or in respect of a particular institution/school. The panel should contain the names of the candidates three times of the number of vacancies. The vice in Sub-rule (3), it is argued, is, it mandates selection of candidates only by interview. What is complained of is that there is no provision for comparison of educational qualification, administrative experience, service record and character roll without which selection solely on the basis of interview will be arbitrary. It may be noted that the scheme for selection of the candidates, under consideration, is in two stages. The first stage is evaluation at the time of screening, as envisaged in Appendix D of the 1995 Rules, which provides for awarding of quality points under six items. For academic qualification marks are awarded, under Items 1 to 4, based on the percentage of marks secured in (1) High School; (2) Intermediate; (3) Graduate degree; and (4) Post-graduate degree in accordance with formulae noted therein. Item No. 5 deals with awarding of marks for training depending upon whether the candidate secured the first or the second or the third division in theory and practical. And at item No. 6 provision is made for awarding marks for administrative experience; 2 marks are given for each year of experience, subject to a maximum of 15 marks. Thus, it is noticed that at the stage of awarding quality points academic qualification, training and administrative experience of candidates are taken into consideration. The candidates are called for interview on the basis of the "quality points" secured by them. Regarding non-consideration of service record and character roll by the Commission, no allegation was made in the writ petitions. However, Mr. T.N. Singh, the learned Counsel for the Commission, on instructions, submitted that service records of senior teachers were before the Commission at the time of interview.

27. For all these reasons, we find no illegality in Rule 12(3) of the 1995 Rules providing for selection of suitable candidates based on their performance in the interviews for appointment to the posts of Principals/Headmasters.

41. In *Inder Parkash Gupta Vs. State of Jammu and Kashmir and Others*, their Lordships have held that no hard and fast rule of universal application can be laid down for allocation of marks for viva voce but when such allocation is capable of being misused or abused, the same is liable to be struck down.

42. In *K.H. Siraj Vs. High Court of Kerala and Others*, their Lordships have held that the interview is the best mode of assessing the suitability of a candidate for a particular position. While the written examination will testify the candidate's academic knowledge, the oral test alone can bring out or disclose his overall

intellectual and personal qualities like alertness, resourcefulness, dependability, capacity for discussion, ability to take decisions, qualities of leadership, etc. which are also essential for a judicial officer.

43. Learned Counsel appearing on behalf of the Petitioners have also vehemently argued that the marks allotted in the interview were excessive. We see no merit in this contention. There is a subtle distinction as laid down by their Lordships of the Hon''ble Supreme Court in Anzar Ahmed Vs. State of Bihar and others, in the recruitment process where interview test and written examination is taken as one unit for determining the marks of the candidates and where the criteria prescribed is by way of interview alone. In the present case, sole criteria adopted by the Commission, is interview after holding screen test. The suitability of the candidates was to be adjudged out of 100 marks.

44. It is now well settled that the decision to adopt one of the several alternative statutory modes of recruitment is administrative in nature. Their Lordships of the Hon''ble Supreme Court in Nilangshu Bhusan Basu etc. Vs. Deb K. Sinha and Others etc., have held as under:

6. We feel that once the rules permit recruitment to a post either by direct recruitment or by promotion leaving the decision to the appropriate authority it will be difficult to say or lay down that process of recruitment by promotion must necessarily be adopted first. As a matter of fact, it would amount to legislating a provision in the Statute.

7. In absence of any rule to that effect, it would be an administrative function of the appointing/appropriate authority to take a decision as to which method should be adopted for recruitment on any particular post. It may depend on various factors relevant for the purpose e.g. status of the post, its responsibilities and job requirement, the suitable qualifications as well as the age as may be desirable may also be taken into consideration while making such an administrative decision. In this connection, on behalf of the Appellant the selected candidate a decision reported in State of Andhra Pradesh and Another Vs. V. Sadanandam and Others, State of Andhra Pradesh v. Sadanandam has been relied upon. It has been observed as also quoted in the impugned judgment

.... We need only point out that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the executive. It is not for the judicial bodies to sit in judgment over the wisdom of the executive in choosing the mode of recruitment or the categories from which the recruitment should be made as they are matters of policy decision falling exclusively within the purview of the executive.

45. Lastly, it was contended by the learned Counsel appearing on behalf of the Petitioners that the method of consensus adopted by the Commission is bad in law. The method prescribed is the marks allotted to the candidates in the interview are to be recorded by the Chairman in ink after taking into

consideration the views of the members of the interview board and the members of the Commission participating in interview thereafter are required to put their signatures on the interview sheet in ink. In the present case, the Petitioners have not assailed the vires of the Himachal Pradesh, Higher Education Department, Lecturer (College Cadre) Class-I (Gazetted) Recruitment and Promotion Rules, 2007 and Rules of Business of the Himachal Pradesh Public Service Commission, 2007.

46. The Apex Court in *Dr. Keshav Ram Pal, Reader and Head of Sanskrit Department and Offg. Principal, Lajpat Rai Post-graduate College, Sahibabad, Distt. Ghaziabad, U.P. Vs. U.P. Higher Education Services Commission, Allahabad and others*, has held that the interview board is not obliged to sub-divide the marks and selection is not arbitrary in absence of such subdivision. Their Lordships have held as under:

3. We do not think that the Interviewing Board, in the present case, was under any obligation to subdivide the marks under various sub-heads. The writ petition is, therefore, dismissed, but in the circumstances, without costs.

The upshot of the above discussion is that:

- i) We would have precluded the Petitioners from challenging the selection process after they availed the opportunity by appearing in the screening test and interview at the threshold. However, taking into consideration the importance of the issue involved, we have permitted them to advance arguments on merits of the case;
- ii) It was open to the Commission as per the Recruitment and Promotion Rules and the Rules of Business of the Himachal Pradesh Public Service Commission, 2007 to hold the screening test to short list the candidates;
- iii) There is no illegality or unconstitutionality in the method adopted by the Respondent-Commission in the present case to fill up the posts merely on the basis of interview. It will always depend on the nature of the post. In the present case we are dealing with the post of Lecturer. The candidate's aptitude, intellectual and academic achievements can only be adjudged when he is subjected to interview by the experts. In order to attract the best talent, the method of interview is proper and valid. A candidate may be extraordinary brilliant as far as academics are concerned, however, he may not prove to be a good teacher;
- iv) It is always open to the employer/Commission and selection board to adopt any of the selection method prescribed in their Recruitment and Promotion Rules. It is an administrative act and the scope of judicial review is very limited;
- v) The marks allotted in the interview cannot be disproportionate/excessive if written examination is also prescribed. However, when the selection is based purely on performance of the candidate in the interview, this principle will not apply as held by their Lordships in *Anzar Ahmed Vs. State of Bihar and others*, In

the present case, 100 marks for interview cannot be termed illegal, arbitrary or unreasonable after holding the screening test;

vi) It is not necessary as laid down by their Lordships in *Madan Lal and Others Vs. State of Jammu and Kashmir and Others*, to allot marks under separate heads. The method evolved by the Commission as reflected in the Rules of Business of the Himachal Pradesh Public Service Commission, 2007 on consensus is valid.

47. Accordingly, there is no merit in these petitions and the same are dismissed. However, there shall be no order as to costs.