
(1993) 12 KL CK 0034
In the High Court Of Kerala
Case No : W.A. No. 1525 of 1993-C

Dileepkumar

APPELLANT

Vs

General Insurance Corporation of India and Others

RESPONDENT

Date of Decision : 13-12-1993

Acts Referred:

Citation : (1993) 12 KL CK 0034

Hon'ble Judges : M. Jagannadha Rao, C.J;K. Sreedharan, J

Bench : Division Bench

Advocate : K. Ramakumar and Sherly S.A, for the Appellant;

Final Decision : Dismissed

Judgement

K. Sreedharan, J.—Petitioner in O.P. 10402 of 1992 is the Appellant. He is working as an Agent in the United India Insurance Company Limited. The said company is one of the subsidiary companies of the General Insurance Corporation of India. He joined service of the company way back on 28th March 1985.

2. In the year 1989, the General Insurance Corporation of India issued Exhibit P-1 notification inviting applications for recruitment to the post of Marketing Trainees. The recruitment was from open market. Procedure for selection, as per the notification, consists of a written test, which will be (i) objective type covering Verbal Reasoning, Numerical Reasoning, Sales Aptitude, English Knowledge and comprehension, General Insurance Awareness, and (ii) Descriptive type on English. Those selected on the basis of the performance in the test are to be called for personal interview for final selection. Pursuant to the notification, Petitioner submitted his application. A test was conducted on 25th June 1989. Interviews were conducted between 2nd April 1990 and 27th April 1990.

3. The open market recruitment was not considered just and proper by Agents/ Marketing Agents/Rural Representatives working on the Insurance Companies.

They approached Courts for recruitment of Marketing Trainees exclusively from among them. The Corporation, at its meeting held on 19th November 1990, approved reservation of 33 1/3 percent of the vacancies of the Marketing Trainees to be filled in exclusively from Agents/Marketing Agents/Rural Representatives in the employment of Insurance companies. Consequently on 10th December 1990, another notification was issued inviting applications for the post of Marketing Trainees from among the Agents/ Rural Representatives/ Marketing Agents. It has been specified in the notification that those who had appeared for the written test held on 25th June 1989 can also send their applications for recruitment. The Agents/Marketing Agents/Rural Representatives were not satisfied with the extent of reservation of 33 1/3 percent of posts in the cadre of Marketing Trainees. Thereupon the corporation raised the quota for them to 50 percent. This necessitated the issue of another circular. Petitioner submitted his application to the second notification also. Written test in terms of the latter specification of 50 percent was held on 17th November 1991. That test was followed by an interview as well. The result of the open market selection, for which written test was held on 25th June 1989, was not published earlier. After completion of the separate recruitment exercise for Insurance Agents/Marketing Agents/Rural Representatives, corporation published select list of both the tests simultaneously on 31st July 1992. Petitioner was not include in the select list. It is the Petitioner's case that the selection of candidates, who find a place in the final list, is vitiated by extraneous and irrelevant considerations and the selection is not based on merit, business performance or experience gained by them as General Insurance Agents. It is contended that the selection does not reflect the respective merits of the candidates who were actually interviewed. On these averments, he has approached this Court for quashing the select list. Learned Single Judge, by judgment dated 19th November 1992, dismissed the Original Petition along with other similar petitions filed by Ors. . Hence this appeal.

4. The main argument advanced by the learned Counsel representing the Appellant was that the Corporation was not justified in setting apart 50 marks for the interview of candidates. The argument is that by assigning such large marks for interview would lead to arbitrariness in the selection of candidates. Learned Counsel submitted that high percentage of marks for interview will outweigh the performance in the written test and the written test will become an empty formality. It is also his case that the entire selection process is vitiated by extraneous and irrelevant considerations and the selection was not based on merit.

5. In the instant case, 100 marks were set apart for written test, 50, marks for interview and 50 marks for agency experience. For insurance qualification, another 5 marks were set apart. From this, it could be seen that for interview 50 marks alone were fixed out of a total of 205 marks. Written test carried 100 marks. From this it is evident that 24.4 percent marks alone are set apart for the interview. Can it be said to be excessive so as to vitiate the entire selection process?

6. Learned Counsel representing the writ Petitioner-Appellant contended that any method which makes the viva voce test a determining factor in the selection process, resulting in a candidate who secures low marks in the written test being pushed up in the list by awarding him high marks in the viva voce test is arbitrary and liable to be interfered with. In support of this argument, he relied on the decision in *Ashok Kumar Yadav and Others Vs. State of Haryana and Others*, . The context in which the Supreme Court decided the said case was one where the marks set but for viva voce was so enormous when compared with the marks for the written examination. In such a situation, the viva voce test became the determining factor. In such a situation there were possibilities of a candidate being allotted high, marks at the interview. Such a situation is, according to us, conspicuously absent on the facts before us. Out of the total 205 marks, 50 marks alone were set apart for interview. It worked out to be 24.4 percent. This percentage cannot be said to be on the higher side, which can tilt the balance in favour of any candidate depending on the whims and fancies of the person who interviews the candidate.

7. The purpose and object of a competitive examination is to select most suitable candidates for appointment to the higher post. A person may obtain sufficiently high marks and yet he may not be selected on account of limited number of posts and availability of persons with higher quality. Distinction appears to have been drawn in interview held for competitive examinations or admission in educational institutions and selection for higher posts. Efforts have been made to eliminate scope of arbitrariness in the former by narrowing down the proportion between written test and interview. But, the said standard cannot be applied for selection to the higher posts. Prescription of 50 percent of the total marks for the interview was found to be just by the Supreme Court in *Indian Airlines Corporation Vs. Capt. K.C. Shukla and Others*, Relying on the decision in *Lila Dhar Vs. State of Rajasthan and Others*, . Their Lordships observed:

...it would be unsafe to strike down the rules as arbitrary when the evaluation was job oriented.

For the selection of Customs House Agent, 100 marks were set apart for written examination and 100 marks for oral test. Thus, 50 percent of the aggregate of 200 marks were set apart for interview. It was upheld by Their Lordships in *D.V. Bakshi and others etc. etc. Vs. Union of India and others*, Their Lordships observed:

The factors to be assessed at the interview relate to his temperament, managerial ability, communication ability, interpersonal skills, ability to interact with colleagues and officials, general awareness in regard to his functional responsibilities and professional norms as well as norms of behavior, etc. Therefore, the area of the enquiry in regard to actual working is equally wide and important and there is justification for an oral test prescribing 100 marks with 50 percent as passing marks.

From this, it is evident that when the Court deals with selection to a public service, the need for higher percentage of marks being awarded in the interview cannot be interfered with, taking the yardstick for selection to any course of study. Insurance Agents, Marketing Agents and Rural Representatives were contesting for selection to the post of Marketing Trainees. Their performance in the lower category had to be assessed at the time of the interview. So, fixation of 50 marks out of the total of 205 can never be considered to be on the higher side, which will give room for arbitrary selection of candidates.

8. Writ Petitioner-Appellant raised a contention that in the process of selection extraneous and irrelevant factors have been imported to eliminate eligible candidates and to select totally ineligible candidates. According to him, some of those included in the select list had failed in the written test conducted in 1989 and yet their names have been included in the list consequent on the second interview and test. Apart from making this wild allegation, no material has been placed before us to substantiate the same. Candidates who took the test held on 25th June 1989 and who failed could appear for the second test held on 17th November 1991 pursuant to the later notifications. If they could pass the second test and thereby appear for the interview, we do not find any illegality in the selection of those candidates solely on the ground that they happened to fail in the test held on 25th June 1989.

9. Apart from making wild allegations regarding favoritism and arbitrariness in the process of selection of candidates, no material to support this allegation has been produced before us. So, we do not think it proper to place any reliance on these contentions raised by the Appellant.

In view of what has been stated above , We find no merit in this appeal. It is accordingly dismissed.