

(2002) 08 BOM CK 0070

In the Bombay High Court

Case No : Writ Petition No. 3151 of 1991

State Bank of India and Subsidiary Banks Employees Union APPELLANT

Vs

General Manager (Operations), State Bank of India, Bombay RESPONDENT
and Central Selection Board, State Bank of India,
Aurangabad

Date of Decision : 08-08-2002

Acts Referred:

Citation : (2003) 2 ALLMR 1061 : (2003) 4 BomCR 718 : (2003) 1 BOMLR 144 :
(2003) 1 LLJ 1052 : (2003) 1 MhLj 28

Hon'ble Judges : D.G. Karnik, J;B.H. Marlapalle, J

Bench : Division Bench

Advocate : S.P. Deshmukh, for the Appellant; A.H. Joshi, for the Respondent

Final Decision : Dismissed

Judgement

Marlapalle, J.—The Petitioner No. 1 is a union and Petitioner No. 2 is an employee of the Respondent No. 1 Bank [State Bank of India] and at the relevant time was working under the Respondent No.3. The grievance raised in this petition pertains to the appointment of Trainee Officers by way of promotion. On 2nd March, 1991 the Bank issued circular No. PER/KCL/of 1991 inviting applications for preparation of the list of eligible employees for appointment as Trainee Officers with effect from 1st August, 1991. The requirements, like minimum service, minimum age, educational qualifications etc., were set out in the said circular. The Petitioner No. 2 responded and he went through the process of selection. He appeared for the written test held on 12th May, 1991 and he was declared successful in the same. He was called for viva-voce on 15th July, 1991 and he attended the same before the interview committee. However, when the names of successful candidates were announced he did not find his name in the list for Trainee Officers and, therefore, he approached this Court challenging the validity of the selection process consequent to the circular dated 2nd March, 1991 and prayed for quashing the selection and directions to appoint Petitioner

No. 2 as Trainee Officer for 1992 batch.

2. The main thrust of the challenge is on the ground that the written test held was for 150 marks and the interview assessment was for 100 marks i.e. 40% of the total marks i.e. written test plus interview. The objection of the petitioner is that fixing of 40% marks for oral interview is excessive and contrary to the law laid down by the Apex Court from time to time.

3. The Respondent bank filed its reply and opposed the petition. It has emphasised that the selection process was undertaken as per rules and there was nothing arbitrary or illegal in the said selection process. The Petitioner having gone through the selection procedure could not have turned back to challenge the very same procedure. It is also contended that the Petitioner was aware, right from the time he had responded to the circular dated 2nd March, 1991, regarding the marks fixed for written test as well as for the interview and he did not raise any protest either orally or in writing before the petition was filed or before he underwent the selection process.

4. As directed by us, the Bank has placed before us the policy for promotion to JMGS-I and Trainee Officers, that was existing prior to October, 1992 and modified thereafter. The guidelines for appointment of Trainee Officers, which were applicable to the subject selection, indicate that in addition to the qualifications and minimum service requirement the selection procedure consisted of written test and interview and also clarified that oral interview will be only for those who qualified in the written test. The distribution of marks for written test and interview was (a) written test : 150 marks, (b) interview : 100 marks. From October, 1992 onwards this was sought to be changed to (a) written test : 160 and (b) interview : 40. It is clear that the existing selection procedure consisted of 250 marks whereas the revised procedure (from October, 1992) consisted of 200 marks.

5. In the case of Lila Dhar Vs. State of Rajasthan and Others, it was clarified that the earlier decision in the case of Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others, and Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others, were the cases pertaining to admission to colleges and the provisions for marks for interview and written test could not be the same for admission to colleges and entry into public services. While dealing with the ambit of written test and oral interview for public services, the Apex Court observed:

"6.... ... 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 qualifications 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. ..."

Subsequently, a four Judge Bench of the Apex Court in the case of Ashok Kumar Yadav and Others Vs. State of Haryana and Others, of its judgment reiterated the observations made in Lila Dhar's case (supra).

In the case of "C.P. Kalra V/s Air India Through its Managing Director, Bombay and others" 1994 Sup (1) S.C.C. 454 the Apex Court was dealing with a similar situation like the one we have at hand. Out of total 100 marks 60 marks were reserved for annual performance appraisal reports and 40 marks for personal interview as per Rule 2.6. It was contended before the Court that fixing of 40% marks for oral interview vitiated the selection process and the selection process was by internal promotions. The contentions were overruled.

6. It is not disputed that the Petitioner underwent the selection process and decided to challenge the same when he realised that his name was not found in the selection list displayed by the Bank for the post of Trainee Officer. It is well established by now that after having gone through the selection process, without any protest, the candidate, who did not find his place in the selection list, has no right to challenge the validity of selection process and this is what exactly the Petitioner sought to do and, therefore, his challenge has to be repelled.

7. We have examined the record and noticed that by the impugned selection process a number of employees were promoted and appointed to the post of Trainee Officers but were not impleaded as a party respondent. The selection was made about a decade ago and though the petition was pending for more than eleven years no steps were taken to implead any of such officers who were likely to be affected though the Petitioner No. 1 is the union claiming to represent such officers. Thus, the petition fails on all counts.

8. In the result, the writ petition is dismissed.

9. Rule discharged with no orders as to costs.