
(2002) 02 JH CK 0076
In the Jharkhand High Court
Case No : C.W.J.C. No. 1498 of 2000

Vidya Kumar

APPELLANT

Vs

Indian Iron and Steel Co. Limited and Others

RESPONDENT

Date of Decision : 14-02-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2002) 02 JH CK 0076

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : P.K. Sinha and Rajiv Ranjan, for the Appellant; M.M. Banerjee, A. Sen, Biren Poddar, A.R. Choudhary, Darshan Poddar Mishra and Ajay Poddar, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for issuance of an appropriate writ striking down the letter of appointment issued by respondent No. 6, Senior Executive Personnel. Chasnala colliery in favour of respondent Nos. 7 to 9 against the three posts of Deputy Surveyor without considering the ease of the petitioner who belongs to backward class and further for a declaration that allotment of 50 marks for written test and 50 marks for interview is arbitrary, malafide, unreasonable and viola-tive of Article 14 of the Constitution.

2. In 1999 the respondent-Indian Iron and Steel Company Ltd.. a subsidiary of Steel Authority of India Limited, published an advertisement in the newspaper for the post of Deputy Surveyor for its Chasnala colliery located at Dhanbad. As per advertisement the requisite qualification was diploma in underground Mining Operation with surveyor ship certificate in mining. The petitioner being eligible and qualified, applied for the post of surveyor and submitted his application along with certificates of qualification, experience and O.B.C. issued by the competent authority. The petitioner appeared in the written test and became successful. The petitioner received a call letter for interview on 3rd March. 2000

issued by Senior Executive Personnel. It is contended by the petitioner that he did well in the interview and answered all the technical and non-technical questions satisfactorily. It is further contended that 50 marks was allotted for interview out of 100

marks and out of 50 marks he obtained 39 marks whereas respondent No, 9 obtained 41 marks. It is alleged that allotment of 50 marks for oral interview and 50 marks for written test for the post of surveyor gives enough chance for manipulation and favour-Ing their own candidates.

3. Respondents" case, on the other hand, is that the petitioner did not even secure qualifying marks which was 60 in total and he obtained 50.5 marks in total. The other three candidates who were selected, secured qualifying marks of 60.

4. Mr. P.K. Sinha, learned Senior Counsel appearing for the petitioner mainly assailed the allocation of 50 marks for written test and 50 marks for interview as wholly unconstitutional and against the settled principles of law laid down by the Supreme Court. In this connection learned Counsel put heavy reliance on the decisions of the Supreme Court in the case of Mohinder Sain Garg Ors. Vs. State of Punjab and Others, and Munindra Kumar and others Vs. Rajiv Govil and others,

5. Mr. Biren Poddar. learned Counsel appearing on behalf of the respondent-Company, submitted that the post of .surveyor is a specialised post in which lot of decision making is involved which has direct bearing on the life of mine workers and property of the mines and. accordingly 50% marks is being allotted for interview. Learned Counsel submitted that allocation of 50% marks out of 100 for interview is not illegal and arbitrary keeping in view that the post in question is very specialised and responsible post. Learned Counsel relied upon the decisions of the Supreme Court in the case of All India State Bank Officers" Federation and Others Vs. Union of India (UOI) and Others, and a case reported in Kiran Gupta and Others Vs. State of U.P. and Others Etc., .

6. In Mohinder Sain Garg"s case (supra) the Apex Court is of the view that in case of composite process of selection comprising written examination and interview of candidates fresh from schools/colleges for public employment, allocation of more than 15 per cent of the total marks for viva voce test would be unreasonable and excessive. The said, decision was followed in the Munindra Kumar"s case (supra). However, in the case of D.V. Bakshi and others etc. etc. Vs. Union of India and others, . their lordships observed as under :

"The importance of the oral interview lies in the fact that the examiners have an opportunity to assess his performance as a temporary licence holder and also seek his clarification in regard to certain matters which might have come to their knowledge during the period he worked as a temporary licence holder. The Regulations have, therefore, taken care to ensure that he has experience of at least one year as an apprentice to an agent before he" applies for the grant of licence. In order to assess his work he is given a temporary licence before he

qualifies by clearing the prescribed examination. The authorities have the opportunity of assessing his knowledge regarding the laws and procedure through the written examination. It must be remembered that the customs station is a place of work. Observance of regulations is absolutely essential as movement of very valuable goods takes place and only sufficiently experienced hands can be permitted to act as agents. He must satisfy the authorities that he has adequate knowledge regarding the laws and the procedure connected with the clearance of goods and that he actually is in a position to handle the work from the moment he is licensed. The assessment of his work during the period he holds the licence, is, therefore, of great relevance and that can be done at the oral test only. The assessment has to be made on the basis of his performance as a temporary licence holder and his capacity to handle goods as an agent at the customs station."

7. Their lordships further observed as under:

"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 per cent as passing marks. This is so because the authorities have to assess the Candidate's personality, his temperament and his

capacity to interact with others concerned with the movement of highly valuable goods etc."

8. In *All India State Bank Officers Federation's case* (supra) the Apex Court again laid down the law with regard to validity of allotting marks for written test and interview. It was held as under :

"We do not find any merit in this contention. There can be no rigid or hard and fast rule that the interview marks can only be 15 per cent and no more. The percentage of marks for viva voce or interview which can be regarded as unreasonable will depend on the facts of each case. Decisions of this Court show that no rigid rule, relating to percentage of marks for interview of general universal application can or has been laid down. What the interview or viva voce marks should be may vary from service to service and the office or position or the purpose for which the interview is to be held. But the interview/ marks should not be so high as to give an authority unchecked scope to manipulate or act in an arbitrary manner while making selection. Where merit can be best judged by holding an interview there such marks may be high but each case will have to be judged on its own facts, interview marks may be the minimal in such cases as relating to admission to a college as held by this Court in *Minor A. Periakaruppan v. State of T.N.* and *Ajay Hasia v. Khalid Mujib Sehravardi*. In *Lila Dhar v. State of Rajasthan*, this Court on the other hand, held that in some cases

relating to recruitment, from amongst persons of matured personality holding of an interview may be the only way subject to basic and essential requirements being satisfied."

9. As noticed above, it has been categorically stated in the counter-affidavit (that chance of any kind of manipulation during interview did not arise as 50 marks allocated for interview was again divided into 5 heads i.e. job knowledge. Aptitude, experience, personality and qualification of 10 marks under each head. There were six members in the interview Board and all of them were to allocate marks for interview separately and the final marks allocated was the compilation of the marks allocated by all the members of the Interview Board. The respon-

dents further stated that the post of Deputy Surveyor is specialised post in which lot of decisions making is involved which has direct bearing on the life of mine workers and the property of mines. These facts have not been controverted by the petitioner. In the light of the decisions of the Apex Court I am, therefore, of the opinion that allocation of 50% marks for interview was not illegal or unjustified.

10. So far the case of the petitioner for non-consideration against reserved post is concerned, it appears that according to the revised roster none of the three posts were reserved and the respondent-Company has acted in accordance with the reservation policy applicable in the Public Sector Undertakings.

11. For the aforesaid reason, I find no merit in this writ application which is accordingly.