

Munindra Kumar And Ors. Etc vs Rajiv Govil And Ors Etc on 10 May, 1991

Equivalent citations: 1991 AIR 1607, 1991 SCR (2) 812, AIR 1991 SUPREME COURT 1607, 1991 (3) SCC 368, 1991 AIR SCW 1609, 1991 LAB. I. C. 1468, 1991 (2) UJ (SC) 199, (1991) IJR 398 (SC), (1991) 2 SCR 812 (SC), 1991 (2) SCR 812, 1991 UJ(SC) 2 199, 1991 (2) UPLBEC 821, 1991 (2) ALL CJ 890, (1991) 2 JT 537 (SC), (1991) 63 FACLR 128, (1991) 2 LABLJ 103, (1991) 2 LAB LN 415, (1991) 3 SERVLR 712, (1991) 2 UPLBEC 821, 1991 SCC (L&S) 1052, (1991) 16 ATC 928, (1991) 2 CURLR 356

Author: N.M. Kasliwal

Bench: N.M. Kasliwal, K. Ramaswamy

PETITIONER:

MUNINDRA KUMAR AND ORS. ETC.

Vs.

RESPONDENT:

RAJIV GOVIL AND ORS ETC.

DATE OF JUDGMENT 10/05/1991

BENCH:

KASLIWAL, N.M. (J)

BENCH:

KASLIWAL, N.M. (J)

RAMASWAMY, K.

CITATION:

1991 AIR 1607

1991 SCR (2) 812

1991 SCC (3) 368

JT 1991 (2) 537

1991 SCALE (1)935

ACT:

Constitution of India, 1950: Article 14-Selection for the post of Assistant Engineer (Civil) in the U.P. State Electricity Board-Allocation of 40 marks for interview and 40 marks for group discussion-As against 120 marks for Written Examination-Whether arbitrary-Whether violative of.

Civil Service: U.P. State Electricity Board-Assistant Engineers (Civil)-Section-Allocation of marks-As against 120 marks for Written Test, 40 marks for interview and 40 marks for group discussion-Whether arbitrary-Selection made on

such basis-Whether vitiated-Method of Group discussion along with interview-Desirability and legality of-Ideal marks to be allocated for interview and group discussion-Stipulated.

HEADNOTE:

For filling up the posts of Assistant Engineers (Civil), the U.P. State Electricity Board issued an advertisement calling for applications. As per the Scheme of Examination, 120 marks were allocated for Written Test and 40 marks each were allocated for Interview and group discussion. By following the said procedure the Board selected the successful candidates and appointed them.

Three unsuccessful candidates filed Writ Petitions before the High Court. They contended that the marks allocated for Interview and group discussion were on the higher side and as such the entire selection stood vitiated and was liable to be quashed.

Accepting the contentions, the High Court quashed the entire selection. Aggrieved by the High Court's order, the appellants who were selected and appointed as Assistant Engineers (Civil) preferred the present appeals, by special leave.

Allowing the appeals in part his Court,

HELD: 1. The rule made by the U.P. State Electricity Board keeping 40 marks for Interview and 40 marks for group discussions is

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arbitrary and is quashed. In future the marks for interview and group discussion shall not be kept exceeding 10% and 5/5 respectively of the total marks. However, the election already made by the Board for the posts of Assistant Engineers (Civil) shall not be disturbed. [820A-B]

2. It cannot be held that the method of group discussion along with interview for selection of Assistant Engineers by the Board is in any manner wrong, illegal or unconstitutional. It is in vogue in the Board since 1979 and it lies in the wisdom of the Board to keep the method of group discussion as an aid to interview for selection of Assistant Engineers in future or not. [818A]

3. Group discussion is a mode of selection in aid of interview in order to assess the personality of the candidate and determine his/her suitability to the job in hand. In the case of an interview or oral viva voce it is restricted to a single candidate at a time while in the case of group discussion it takes place among a group of candidates themselves. Generally, candidates of same age level, similar educational qualifications, experience and environmental background are grouped together and asked to discuss a subject. The purpose of group discussion is to assess the qualities, mental alertness, manner of asserting oneself, showing regard for opinion of others, ability to

discuss a subject without losing temper and his initiative, tact and self confidence when confronted with a problem facing a large number of people. In group discussion the examiner observes the candidates from behind and makes his own assessment and as such the allotment of marks for group discussion cannot be equated with the marks allotted for interview. In the interview every candidate gets a chance and the members of the interviewing board can in a better manner judge the intelligence, ability and personality of the candidate to determine his suitability for the job. The marks for group discussion cannot be kept at an equal pedestal with the interview. However, the group discussion as one of the methods for assessing the suitability of a candidate for the post of Assistant Engineer has not been kept by any other State Electricity Board in India except the Andhra Pradesh and Uttar Pradesh Electricity Boards. Taking into account all aspect of the matter and the procedure adopted at various examination, it is fit and proper that 15 per cent marks in all are to be kept for interview, and if the rule making authorities want to keep group discussion also as one of the modes of selection then marks for interview and group discussion should not exceed 10 per cent and 5 per cent respectively of the total marks. [817B-G]

Mohinder Sain Garg & Ors. v. State of Punjab & Ors., JT 1990 4 SC 704, relied on.

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4. It is no doubt correct that the Respondents cannot be stopped from challenging the rule which is arbitrary and violative of Article 14 of the Constitution but in moulding the relief, their conduct in filing the Writ Petition before the High Court after taking chance and fully knowing the percentage of marks kept for interview and group discussion, and the equities of those who have been selected are the relevant considerations. The appellants have joined the post on 28th December, 1989 and after completing the training they are discharging their duties at different places. Some of them had left their earlier jobs and have also become averaged. It is not proper in the interest of justice to set aside the selection of the appellants. [818G-H; 819A-B]

JUDGMENT:

CIVIL APPELLATE JURISIDCTION: Civil Appeal Nos. 2433 to 2435 of 1991 etc. etc. From the Judgment and Order dated 20.3.1990 of the Allahabad High Court in W.P. Nos. 10643, 10342 and 10706 of 1989.

S.S. Ray, P.P. Rao, S.N. Bhat, Narendra Singh Malik, Sunil Gupta, Harish N. Salve and Pradeep Misra for the Appellants.

U.R. Lalit, R.C. Verma, Virendra Mishra, Gopal Subramaniam and Mrs. S. Dikshit for the Respondents.

The Judgment of the Court was delivered by KASLIWAL, J. Special leave granted.

We are confronted in these appeals with the question as to what percentage of marks awarded for group discussion and interview for selection of Assistant Engineers by the U.P. State Electricity Board, is reasonable.

The U.P. State Electricity Board invited applications for filling up the posts of Assistant Engineers (Civil) by issuing an advertisement in April, 1989. 120 marks were allocated for the written test, 40 marks for interview and 40 marks for group discussion. Written test was conducted by the Board on 9th July, 1989 and then interviews and group discussion were held in October and November, 1989. The result of the successful candidates in order of merit was published in daily newspaper on 27th November, 1989. The very next day the Board also issued individual letters to the successful candidates calling upon them to join on 26th December, 1989 at Electricity Training Institute' Sarojini Nagar, Lucknow, The appellants before us joined the institute in December, 1989 and thereafter they were sent to various places for training and they started drawing salaries in the prescribed pay-scale and since then they are continuously working on the respective posts.

The three unsuccessful candidates filed writ petitions in the Lucknow bench of the High Court of Judicature at Allahabad inter alia on the ground that the marks for interview and group discussion had been allocated on the higher side and against the decisions of this Court and as such the entire selection stood vitiated and was liable to be quashed. The High Court by Judgment dated 28th March, 1990 allowed the writ petitions by a common Judgment on the ground that the marks allocated for interview and group discussion were more than 20 per cent and hence the whole selection was liable to be quashed. Aggrieved against the Judgment of the High Court, the appellants have come in appeal to this Court by grant of special leave.

As a result of the written examination held on 9th July, 1989 as many as 386 candidates were called for group discussion/interview. Later on 49 more candidates were called for group discussion and interview. A list of 46 candidates who were declared successful was published by the Board. Out of these 46 candidates, 25 belong to the general category. The Board in its counter affidavit filed before the High Court admitted that group discussion was part of interview. If that position is accepted then it shows that 120 marks were allocated for written test and 80 marks for interview (40 for interview and 40 for group discussion) and thus it comes to 40 per cent of the total marks for interview. This court had already dealt with the question of percentage of marks to be allotted for interview for selection to the public posts in the latest decision *Mohinder Sain Garg & Ors. v. State of Punjab & Ors.*, JT 1990 4 SC 704 where the maximum percentage has been laid down as 15 per cent of the total marks. All the earlier cases were noted in this case and the question is no longer res integra. In view of these circumstances the High Court was right in holding that the marks allocated for interview and group discussion were arbitrary. The High Court after holding the percentage of marks as arbitrary also quashed the entire selection. This Court while entertaining the special leave petition on 23rd April, 1990 stayed the operation of the Judgment of the High Court and allowed the

appellants to continue in employment and as such the appellants are continuing in service. We had heard the arguments and at the time of reserving the judgment on 8th February, 1991 had given the following direction.

"We direct Learned counsel for the Board to furnish the service rules for the recruitment/selection of the Assistant Engineers of all the Electricity Boards of the various States in India. The Board shall also furnish the Rules, if any, of any other public sector undertaking where recruitment are made of Assistant Engineers or of equivalent technical personnel, where group discussions is one of the conditions of recruitment. In case group discussion is there, then all the details with regard to the percentage of marks kept for group discussion and other details including subjects given for group discussion should be furnished to this Court.

All the above material should be furnished within three weeks with an affidavit of the Secretary of the U.P. State Electricity Board."

Pursuant to the above direction of this Court, the Secretary, U.P. State Electricity Board submitted an affidavit stating that the Board addressed communications to 16 Electricity Boards in the country and also to other public sector undertakings. In response to the said communication, the information received by him has been furnished before this Court. According to the said information 14 Electricity Boards have sent their replies stating that there was no provision of group discussion in their rules for recruitment to the post of Assistant Engineers. Only one i.e. Andhra Pradesh State Electricity Board has informed that there was a provision for interview/group discussion in their rules but the marks provided were 100 for written examination and 10 for interview/group discussion. As regards the public sector undertakings, there is no provision for group discussion in Coal India Ltd., Oil & Natural Gas Commission, National Hydro Electric Power Corporation, National Thermal Power Corporation and Tehri Hydro Power Development Corporation. Hindustan Aeronautics Limited has informed that their rules provide for group discussion and the marks allotted are 50 for the written examination, 35 for interview and 15 for group discussion. HMT Ltd. has informed that in their rules 100 marks are allotted for written examination and 100 for interview/group discussion. Hindustan Petroleum Corp. Ltd. has informed that there is no provision for written examination and 10 for interview/group discussion. As regards the public sector undertakings, there is no provision for group discussion in Coal India Ltd. Oil & Natural Gas Commission National Hydro Electric Power Corporation, National Thermal Power Corporation and Tehri Hydro Power Development Corporation. Hindustan Aeronautics Limited has informed that their rules provide for group discussion and the marks allotted are 50 for written examination, 35 for interview and 15 for group discussion. HMT Ltd. has informed that in their rules 100 marks are allotted for written examination and 100 for interview/group discussion. Hindustan Petroleum Corp. Ltd. has informed that there is no provision for written examination in their rules and they have made a provision for 60 per cent marks for interview and 40 per cent for group discussion. The above information shows that so far as Electricity are concerned, group discussion as a method of recruitment for the post of Assistant Engineers is in vogue in Andhra Pradesh State Electricity Board and the U.P. State Electricity Board and not in any other State in India. So far as Andhra Pradesh State Electricity Board is concerned, it has provided 100 marks for written examination and only 10

for interview/group discussion cumulatively. Even in case of recruitment for Indian Administration Service and other administrative posts for various departments in the States Group discussion is not kept as a method of selection.

We would now deal with the group discussion as a mode of selection in aid of interview. The group discussion test was first introduced in the western countries for selection of personnel for their armed forces and finding it successful, they introduced it in the service selection boards in India. Gradually the utility and success of this method of testing made it popular among other organisations in our country in public sector and private undertakings and enterprises. It is a mode of selection in aid of interview in order to assess the personality of the candidate and determine his/her suitability to the job in hand. In the case of an interview or oral viva voce it is restricted to a single candidate at a time while in the case of group discussion it takes place among a group of candidates themselves. Generally, candidates of same age level, similar educational qualifications, experience and environmental background are grouped together and asked to discuss a subject. A group usually consists of 5-10 candidates. The candidates in a group are given full freedom to express their views on a subject given for discussion. In the group discussion the candidate are not told as to who speak first or last and how much time each candidate will take in such discussion. The examiner gives two or three topics and asks the group to choose any one of them and then proceed to discuss them. The examiner acts only as a silent observer in the background. The examiner may stay behind a partition from where he can watch candidates and listen to them but cannot be seen or heard by the group. As the members of the group are engaged in a free and frank discussion of the topic the examiner notes down the important personality characteristics of the different speakers. It is observed by the examiner as to how each candidate interacts and reacts when behaving as a member of the team.

The aim of group discussion is to encourage members of a group to express their ideas on a given subject at a short notice with a view to find a solution of the problem. The U.P. State Electricity Board has submitted that interview test and group discussion are in vogue for more than a decade as a method of selection for the post of Assistant Engineers. In our view it cannot be held that the method of group discussion alongwith interview for selection of Assistant Engineers by the Board is in any manner wrong, illegal or unconstitutional. It is in vogue in the Board since 1979 and it lies in the wisdom of the Board to keep the method of group discussion as an aid to interview for selection of Assistant Engineers in future or not. The question now which calls for our consideration is as to what percentage of marks may be considered as reasonable for group discussion. The purpose of group discussion is to assess the qualities mental alertness, manner of asserting oneself, showing regard for opinion of others, ability to discuss a subject without losing temper and his initiative, that and self confidence when confronted with a problem facing a large number of people. However, the group discussion as one of the methods for assessing the suitability of a candidate for the post of Assistant Engineer has not been kept by any other State Electricity Boards in India except Andhra Pradesh and Uttar Pradesh. In group discussion the examiner observes the candidates from behind and makes his own assessment and as such the allotment of marks for group discussion cannot be equated with the marks allotted for interview. In the interview every candidate gets a chance and the members of the interviewing board can in a better manner judge the intelligence, ability and personality of the candidate to determine his suitability for the job. The marks for group discussion

cannot be kept at an equal pedestal with the interview. Thus in our view as already held in Mohinder Sain Garg's case (supra) 15 per cent marks in all are to be kept for interview, and if the rule making authorities want to keep group discussion also as one of the modes of selection then marks for interview and group discussion should not exceed 10 per cent 5 per cent respectively of the total marks.

The next question which arises for consideration is as to what direction would be just and proper in the circumstances of this case. We do not agree with the High Court to quash the entire selection made by the Board for the posts of Assistant Engineers (civil). It may be noted that Rajeev Govil, Vivek Aggarwal and Gyanendra Srivastava who remained unsuccessful had filed the writ petitions after taking chance and fully knowing the percentage of marks kept for interview and group discussion. It is no doubt correct that they cannot be stopped from challenging the rule which is arbitrary and violative of Article 14 of the Constitution, but in modulating the relief, their conduct and the equities of those who have been selected are the relevant considerations. The appellants have jointed the post on 28th December, 1989 and after completing the training are discharging their duties at different places. It has been submitted on their behalf that some of them had left their earlier jobs and have also become overage. Thus we do not consider it proper in the interest of justice to set aside the selections of the appellants. We have seen the marksheet of 295 candidates of the general category who had actually attended the interview and group discussion. So far as the respondents in general category are concerned, they have secured the marks in the following manner:

NAME	WRITTEN TEST	GROUP DISCUSSION	INTERVIEW	TOTAL
Rajeev Govil	85	5	29	119
Vivek Aggarwal	87.5	12	28	127.5
Gyanendra Bah- adur Srivastava	81	17	18	116

The last candidate out of the 25 selected candidates in general category has secured 134.5 marks. Out of the 25 candidates selected in the general category, 5 candidates have secured lesser marks than Rajeev Govil in written test, 9 candidates below Vivek Aggarwal and 2 below Gyanendra Bahadur Srivastava. A persual of the marksheet also shows that 50 candidates are such who have not been selected instead of having secured 87.5 marks or above in written test, 79 candidates who have secured more than 81 marks in the written test. Even if we were inclined to give a further chance of interview and group discussion by keeping 10 per cent and 5 per cent marks respectively for interview and group discussion, in all fairness it would be necessary to give chance to all such candidates who have secured higher marks in the written test in comparison to the respondents-

writ petitioners. We have already taken the view that we do not consider it just and proper to set aside the selections already made. In these circumstances even if we were inclined to give direction to the Board to create three more posts and give chance to all the candidates securing equal or higher marks in the written examination than the writ petitioners, there was a remote chance of the writ petitioners being selected..In our view such exercise would be in futility, taking in view the chance of success of the writ petitioners.

In the result, we allow these appeals in part and quash the rule made by U.P. State Electricity Board keeping 40 marks for interview and 40 marks for group discussion being arbitrary. We direct that in future the marks for interview and group discussion shall not be kept exceeding 10% and 5% of the total marks, respectively. The selection already made by the Board for the post of Assistant Engineers (civil) shall not be disturbed. In the facts and circumstances of the case parties shall bear their own costs.

G.N.

Appeals partly allowed.