

## **Dr. Keshav Ram Pal, Reader And Head Of ... vs U.P. Higher Education Services ... on 24 January, 1986**

**Equivalent citations:** AIR1986SC597, 1986(34)BLJR415, [1986(52)FLR332], (1986)ILLJ311SC, 1989(1)SCALE107, (1986)1SCC671, 1986(1)UJ331(SC), AIR 1986 SUPREME COURT 597, 1986 (1) SCC 671, 1986 LAB. I. C. 553, 1986 BLJR 415, 1986 UPLBEC 262, 1986 UJ (SC) 331, 1986 BLJR 476, 1986 ED CAS 1, 1986 SCC (L&S) 195, (1986) 1 SERVLR 681, (1986) UPLBEC 262, (1986) 1 CURCC 705, (1986) 52 FACLR 332, (1986) 1 LABLJ 311, (1986) 1 LAB LN 473, (1986) 1 SCJ 253, (1986) 1 SUPREME 625, (1986) 12 ALL LR 174, (1986) ALL WC 188, (1986) 1 CURLR 126

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**Bench:** E.S. Venkataramiah, O. Chinnappa Reddy

### **JUDGMENT**

O. Chinnappa Reddy, J.

1. Dr. Keshav Ram Pal, a Ph. D. and a D. Litt. in Sanskrit, who has been teaching degree and post-graduate classes for the last 26 years, who has worked as Reader and Head of the Department of Sanskrit from August 1971 onwards and who has further acted as Principal of the Lajpat Rai Post-Graduate College, Sahibabad for two years in 1972-73 and again from July 3, 1984, applied to the U. P. Higher Education Services Commission for the post of Principal, in response to an advertisement inviting applications for eight such posts. He was one of the 60 candidates, who was interviewed by the Commission but he was not selected. He has filed the present application under Article 32 of the Constitution for the issue of a writ questioning the selection made by the Commission on two grounds. The first ground was that the Commission was biased as he belonged to an inferior caste, namely, the Gadariya (Shepherd) caste whereas the gentleman, who constituted the interviewing Board, belonged to the higher castes of Hindu society. He wanted us to draw the inference of bias from the circumstance, which he alleged in the petition that when he appeared before the Board and when in answer to a query, he told the Board that he belonged to the Gadariya caste, the Board appeared to lose all interest in him, though, in the beginning, they appeared to be quite impressed with him. According to the petitioner, thereafter the interview was a mere make believe. It was later that he came to know that the gentlemen, who constituted the Board, belonged to the higher castes and that all the eight persons selected by them also belonged to the higher castes. We are afraid we are unable to draw the inference which the petitioner wants us to draw from the circumstance. There were six members of the interviewing Board and it is too much

to think that the Board collectively decided not to select the petitioner for the sole reason that he belonged to an inferior caste and they belonged to higher castes. There is nothing whatever to justify the allegation. The Chairman of the Commission has filed an affidavit and he has denied that any enquiry was made of the petitioner regarding his surname or caste.

2. The second ground on which the petitioner challenged the selection was that it was arbitrary. According to him, he possessed the highest academic qualifications and the longest experience and, therefore, he should have been preferred to all the other who were selected. He contended that though each of the members of the interviewing Board was allocated 50 marks, there was no allocation of the marks for the various heads under which the merit of the candidates was judged. The argument was that although the basis of selection was said to be the candidates' 'academic attainments, teaching experience, administrative experience and suitability for the post of Principal', marks were not separately allocated under each of these heads. This procedure, according to the petitioner, was arbitrary and resulted in arbitrary selection. The learned Counsel for the petitioner primarily relied on the following observations of Bhagwati, CJ; in *Ajay Hasia v. Khalid Mujib* :

...The oral interview test is undoubtedly not a very satisfactory test for assessing and evaluating the capacity and calibre of candidates, but in the absence of any better test for measuring personal characteristics and traits, the oral interview test must, at the present stage, be regarded as not irrational or irrelevant though it is subjective and based on first impression, its result is influenced by many uncertain factors and it is capable of abuse. 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,

3. The observations in *Ajay Hasia's* case (supra) have been explained in *Lila Dhar v. State of Rajasthan* and what has been said in *Lila Dhar's* case (supra) has been approved by a Constitution Bench of this Court, speaking through Bhagwati, J, in *Ashok Ktumar Yadav v. State of Haryana* 1984 (4) SCC 417. In *Lila Dhar's* case (supra) it was pointed out by this Court :

The object of any process of selection for entry into a public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism, Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. So, open competitive examination has come to be accepted almost universally as the gateway to public services.

... ..

How should the competitive examination be devised?....

It is now well recognised that while a written examination assesses a candidate's knowledge and intellectual ability, an interview-test is valuable to assess a candidate's overall intellectual and personal qualities. While a written examination has certain distinct advantages over the interview-test there are yet no written tests which can evaluate a candidate's initiative, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Some of these qualities may be evaluated, perhaps with some degree of error, by an interview-test, much depending on the Constitution of the Interview Board....

"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 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 *Periakaruppan v State of Tamil Nadu*, *Ajay Hasia v Khalid Mujib Sehravardi*, 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 a 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....

These observations in *Lila Dhar's* case were quoted verbatim in *Ashok Kumar Yadav's* case (*supra*) and approved. In *Lila Dhar's* case, the court also said :

It is true that in Periakaruppan 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-section tests,....

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