

PETITIONER:
VIKRAM SINGH AND ANR.

Vs.

RESPONDENT:
SUBORDINATE SERVICES SELECTION BARD, HARYANA AND ORS.

DATE OF JUDGMENT 15/11/1990

BENCH:
KASLIWAL, N.M. (J)
BENCH:
KASLIWAL, N.M. (J)
FATHIMA BEEVI, M. (J)

CITATION:
1991 AIR 1011 1991 SCC (1) 686
JT 1990 (4) 528 1990 SCALE (2) 1010

ACT:
Civil Services:
Haryana Excise and Taxation Inspectorate (State Service, Class 111) Rules, 1969--Selection for Excise Inspectors--Viva voce test--Provision of 28.5 of total marks--Whether reasonable.

HEADNOTE:
The Haryana Excise and Taxation Inspectorate (State Service, Class III) Rules, 1969 prescribed 250 marks for the written test and 100 marks for viva voce for selection to that service. In the written examination held by the State Subordinate Services Selection Board in 1985 for the post of Excise Inspectors the appellants were declared successful for the general category. They were then interviewed along with others in March 1986.

In the writ petition preferred by the appellants before the High Court seeking a direction to the respondents to declare the result the affidavit filed by the Chairman of the Selection Board stated that they had awarded viva voce marks out of 12.2% of the total marks as per the ruling of the Court in Ashok Kumar Yadav v. State of Haryana, [1985] Supp. SCR 657. In the amended petition the appellants took the plea that prescribing 100 marks in the Rules for viva voce out of the total of 350 marks, i.e. 28.5%, was absolutely arbitrary and contrary to the law so laid down. In the meantime, the Selection Board decided to reinterview the candidates as in its view the requirement of the Rules had not been properly followed by the previous Board in respect of allotting of marks in the viva voce. The appellants challenged the said decision as illegal and unconstitutional.

The High Court upheld the Rules on the view that Ashok Kumar Yadav's case had no application to the selection made by the Board.

Allowing the appeal, the Court,

HELD: 1: The principle and the ratio of Ashok Kumar Yadav's case will apply to the selections made in the instant case also though made by the Subordinate Services Selection Board. [88F]

84

Mohinder Sain Garg v. State of Punjab & Ors., (Civil Appeal Nos. 5329-32 of 1990 decided on November 15, 1990)

referred to.

Leeladhar v. State of Rajasthan & Ors., [1985] 4 SCC 149 distinguished.

2. In the first interview made by applying the correct principle the appellants were selected and put at Sr. Nos. 3 and 4 in the select list for appointment to the post of Excise Inspectors under the general category. They ought to have been given appointment accordingly. [89E]

3. Though the second interview on the basis of 100 marks for viva voce test was wrong and illegal but still it would not be just and proper to cancel the selections already made as the selected candidates had joined posts long back. [89H-90A]

4. The respondents should take suitable steps and pass appropriate orders for appointing the appellants on the post of Excise Inspectors within one month in case they are found otherwise suitable. In case they have become overage during the intervening period, it would not be considered as a disqualification for their appointment on the said posts. [90B]

JUDGMENT :