

**Central Administrative Tribunal
Principal Bench**

OA No.2179/2014

Reserved on : 23.08.2018
Pronounced on : 18.09.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Mukesh Kumar Suman
A/6, Christian Colony,
Opp. Morris Nagar Police Station,
Delhi 110 007. ... Applicant.

(In person)

Vs.

1. Union Public Service Commission
Dholpur House,
Shahjahan Road,
New Delhi 110 069.
2. Sumit
QU-186, Vishakha Enclave
Uttari Pitam Pura,
North West Delhi-110 088.
3. Niranjan Kumar
Jeevan Deep Building
O/o Regional Labour Commissioner
Room No.12 A,
4th Floor, Parliament Street,
New Delhi 110 001.
4. Nirmal Chandra Kar
Quarter No.IV/TS/FF/76
Hi Tech Colony
NDMC Township Bacheli
District- South Basti Dantewala
Chattisgarh 494553.
5. Shoaibali Hasanli Sayyad
C/o Mahmud Shiek
Prince Commerce Institute
Chaoni, Nagpur 440 013.

6. Rakesh Gaur
H. No.571, Sector 16 A,
Faridabad 121 002.
7. Sachin Kumar
189-A, Alp Bagh Colony,
Near Nagar Mahapalika,
Allahabad 211001.
8. Shubha Tyagi
298/12, Chandan Vihar
West Sant Nagar,
Burari,
Delhi 110 084.
9. Rahul Tyagi
708/412, Street No.2,
Arya Nagar,
Jawalpur, Haridwar,
Uttarakhand 249 407.
10. Resmi V.
T.C. 1/1917 (1)
Sivamanasam High School
Lane Kumarpuram
Thiruvananatpuram.
11. Manikadan
30/2A, Aarni Road,
Opposite Fire Station
Cheyyar
Thruvannamallai
Tamil Nadu 604407.
12. Bidhan Chandra Nayak
Bank of India
Zonal Office,
Sadanand Road,
Saketpuri, Hazaribagh,
Jharkhand.
13. Mohd. Imran Raza
H. No.C-21, Old Govind Pura,
St. No.1, Parwana Road,
Jagatpuri, P.O. Krishhna Nagar,
East Delhi,
Delhi 110 051.

14. Chranjeev Saikia
Near Nidhi Bhavan,
Ward No.8,
New Amolapatty,
PO & PS: Golaghat,
Assam 785 621.
15. Nidhi Sharama
11, United India Apartments,
Mayur Vihar Phase I Extension
New Delhi 110 091.
16. Karunkar Jagannath Mohanty
Village Dingeshwar
Post Palasole
District jagatsingpur
Odisha 754 294.
17. Srinu Dara
Flat No.310
Rajva Bav Complex
Boregain Chowk
Gorewala Road,
Nagpur 440 013.
18. Kanhu Charan Sahu
Trainee Officer (HR)
Chutak Power Station
NHPC Ltd.
PO Minji, District Kargil
Laddakh,
Jammu & Kashmir.
19. Biswa Ranjan Satpathy
Flat No. Type-IV/3
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Office of the Dy. CLC (C)
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20. Susanta Kumar Nayak
C/H/3/N, KAIGA Township
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Distt. Uttara Kannada
Karnataka 581400.
21. Anjali Yadav

H. No.40,
Old Govindpura Extension
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East Delhi,
Delhi 110 051.

22. Sunil Kumar Sahu
Bank of Baroda
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Anand Vihar
West Boring Canal Road
Patna 800 001.
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23. Washimul Haque
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24. Rajeev Ranjan
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26. Mrinmoy Thakur
C/o Dipty Thakur
228, Zig Zig Road (near Namghar)
Central Chowkidinghee
Dibrugarh 786001 (Assam).
27. Ankur Dalal
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28. Ashok Perumalla
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Bhavani Puram,
Vijaywada,

Krishna District 522 012.

29. Barun Kumar Jha
133/5, C/o WB SEDCL
North Malda Division
Durgabari More P.S. Chanchal
District Malda 732123
West Bengal.
30. Dharmendra Kumar Himanshu
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Delhi 110 009.
31. Kanagvel Pandiyan Shanmugavel
Plot No.4, Flat No.F1
Chairman Thambiah Reddy Colony
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Chennai 600126, Tamilnadu.
32. MD Razi Alam Khan
Qtr No.154, Type III Pocket I
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Post Dhoomanganj,
Allahabad.
33. Beena
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Behind SBI Building,
Kamla Nagar,
Thana Roop Nagar
Delhi 110 007.
34. Annadurai
461/16, TNBH Shanthi Colony
7th Main Road, Anna Nagar,
Chennai 400 054.
35. Subhapriyadarshini Muthupandi
133/5, Western Railway Colony,
Santakruj West,
Mumbai 400 054.
36. Madhavan
490/A
Opposite to Ration Shop
Hospital Road

Perambakkam Tiruvallur District
Tamil Nadu 631 402.

37. Ram Krishan Meena
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Model Town, Malviya Nagar,
Jaipur, Rajasthan 302025.
38. Rajesh Kumar T.
D.No.3-4/2, Plot No.165,
Vishnupuram Colony,
Porank, Vijayvada Rural,
District Krishna (A.P.)
39. Praveen Pandi Mohandas
C/201, Star Residency
Evershine City
Vsali (e)
Thane 401205,
Maharastra
40. Sunil Raghnath mali
C/o A. J. Kulkarni
D-12, Green Valley Society
S.No.7/1/14, near RElicon Visha
Narhe Goan, Tal haveli
District Pune, Maharashtra 411 041.
41. V. R. Ganeshan
17/8, Ganapathy Street
Tripicane Ice House,
Chennai 600 005.
42. Renu Yadav
H. No.731, Sector 17,
Defence Colony,
Gurgaon 122 001,
Haryana.
43. Prem Kumar
D. No.11/19th Street
New Mangalore Port Trust Colony
Panambur, Managlore 10,
Karnataka.
44. Pradyumna Kumar Rana
At Kalipoi
Post Bania

Via Kalapatar 754009,
District Cuttack,
Cuttack 754 009, Odisha.

45. Nayan Manik Tripura
S/o Tirthajoy Tripure
Vill Ratan Ropyaja Parar
P.O. Dhumachara, Dhalai
Tripura.
46. Riga Jaisingh Chauhan
Flat No.M 8B, Plot No.18
Vikram Enclave, 80ft Road,
Shalimar Garden,
Sahibabad,
Ghaziabad 201 005.
47. Mohammad Ozair
Mohalla Shah Mohdpur
P.O. Mubarakpur
Distt. Azamgarh
UP 276404.
48. Vishal Ashok Amte
B/201, Sarvodaya Paradise
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Near Bhanu Sagar Talkies
Kelyafn (West)
District Thane-421301.
49. Atul Sing
419 A,
Tularam Bagh
Post Daraganj,
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50. Hari Om Gautam
O/o Labour Enforcement office
Ministry of Labour
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Opp Veterinary Hospital
Barari Road,
Tilkamanjhi
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51. Harikesh Bahadur
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Bikaner (Rajasthan).

52. Hitler Thoudham
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Vijay nagar,
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53. Sagar Pradhan
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Delta Type Colony
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54. Amardeep
Village & Post-Dungarwas
District Rewari
Haryana 122 106.

55. Wonmi Horam
C/o Dr. Grace, 44 E,
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Munirka, Delhi 110 067.

56. S. Ravikanth Reddy
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58. Santosh Kumar Sethi
B-27, GAIL
Vijapur,
Guna, MP 473112.

59. Ministry of Labour & Employment
Shram Shakti Bhavan,
Rafi Marg,
New Delhi 110 001. ... Respondents.

(By Advocates : Shri R. V. Sinha, Shri Amit Sinha, Shri M. N. Singh, Shri G. P. Bhatia and Dr. Ch Shamsuddin Khan)

: O R D E R :**Justice L. Narasimha Reddy, Chairman :**

The Union Public Service Commission, the premier Constitutional recruitment agency of India, published special recruitment advertisement No.51/2013 for recruiting candidates against 57 posts of Assistant Labour Commissioner (Central)/Assistant Labour Welfare Commissioner (Central)/Assistant Director in Grade-V of Junior Time Scale (JTS) of Central Labour Service (CLS), Ministry of Labour & Employment, in the year 2013. The qualifications to be held by the intending candidates, as well as the scale of pay attached to the posts, were indicated in the Advertisement. It was also mentioned that a written objective type recruitment test, with multiple choice questions, would be conducted, followed by interview, for selection. The subjects in which the test would be conducted were also listed. Under a heading 'WEIGHTAGE', it was mentioned that respective weightage of the recruitment test and interviews shall be decided by the Commission.

2. The computer based test for the posts mentioned above was conducted on 04.08.2013. On the basis of the marks obtained by the applicant, he was called for

interview. The final list of selected candidates was published on 17.06.2014. The name of the applicant did not figure therein.

3. The applicant contends that he performed well both in the written test and the interview, but in spite of his efforts, he could not know the marks obtained by him in those tests. According to him, an application was filed by one of the candidates under the Right to Information Act, 2005, to know the percentage of weightage given to the interview, and in reply thereto, it was mentioned that the interview was for 50% of the total marks. He further states that in response to another application filed under the RTI Act, the Commission informed that the minimum marks in the interview, stipulated for general candidates is 50%, whereas for OBC and other reserved category candidates, it is 45%.

4. The applicant challenges the procedure adopted by the Commission in selection of the candidates in pursuance of the advertisement, referred to above. He contends that when the selection process comprises of written test and interview, the marks allocated for interview cannot exceed 15%, in view of the law laid down by the Hon'ble Supreme Court, and allocation of 50%

marks for interview in the instant case is highly arbitrary. He further contends that by stipulating minimum percentage of marks in the interview, the Commission has virtually *topsy turvyed* the results which were otherwise to ensue. It is also argued that according to the details of the marks allotted to candidates though he secured 75 marks in the written test, which is 4th in rank, he was awarded 40 marks in the interview, and thereby kept out of selection, whereas a candidate who secured just 45 marks in the written test was awarded 74 marks in the interview and was selected. Similar instances are cited.

5. The Commission filed a short reply as well as a detailed counter affidavit. An objection as to the very maintainability of the OA is raised. According to them, the applicant cannot file the OA challenging the selection, once he has participated therein. It is pleaded that in the notification itself, it was mentioned that the ratio between written test and interview would be decided by the Commission, and accordingly it was decided, and no exception can be taken to the same. The respondents further contend that the Commission has discretion to decide the method of selection, and the award of marks in the interview cannot be challenged except by impleading

the members of the Interview Board. Other legal and factual contentions are also urged.

6. The selected candidates were impleaded by the applicant by filing an MA, and they were served with notices. Some of them filed counter affidavit almost on the same lines, as that of the Commission.

7. The applicant argued the matter in person. Apart from narrating the facts, he has placed reliance upon certain judgments of Hon'ble Supreme Court and other fora. The arguments on behalf of the Commission are advanced by Shri R. V. Sinha, learned counsel. His contention is that being an authority formed under the Constitution of India, the Commission has every right to decide the procedure to be adopted in the process of selection, and that the applicant has no right to question the same. He further states that having participated in the selection process, the applicant cannot question the same.

8. Learned counsel for the private respondents have also argued on similar lines.

9. The objection raised as to the maintainability of the OA needs to be examined first. The law is fairly well settled

in this regard. If the rules or guidelines of selection for appointment are indicated in the recruitment notification, a candidate who participated in the selection cannot assail the same when it is found that he is not selected. In a way, the principle of estoppel operates against him. In other words, if he had any objection to the selection process, he is required to approach the Court or Tribunal, well in advance, and before participation. He cannot challenge the conditions after conclusion of the selection process. Reference in this context can be made to the judgments of Hon'ble Supreme Court in **Madan Lal & Ors. vs. State of Jammu and Kashmir & Ors** 1995 (3) SCC 486; **Chander Prakesh Tiwari & Ors. v. Shakuntla** 2002 (6) SCC 127; **Vijendra Kumar Verma v. Public Service Commission, Uttarakhand and Others** (2011) 1 SCC 150, to mention a few.

10. In case, the notification issued by the Commission was clear about the percentage of marks to be allocated for written test and interview, the ratio of the judgments referred to above gets straightaway attracted. What is mentioned in the notification in the present case is as under:-

“A Written Objective Type Recruitment Test with multiple choice questions shall be conducted followed by interview for selection.”

WEIGHTAGE

RESPECTIVE WEIGHTAGE OF THE RECRUITMENT TEST AND INTERVIEWS SHALL BE DECIDED BY THE COMMISSION.”

This cannot be said to be the clear or proper information. Neither it spells out the percentage of marks allocated to the written test on the one hand and interview on the other, nor does it indicate so. Unless the candidate is aware as to how much marks are to be secured in the interview to remain in the fray, he or she would not be able to get properly prepared. In other words, if the written test is to become a dominant factor in the process of selection, one may concentrate on that, and conversely if the interview is to have predominant role in the selection, a different approach, such as by undergoing training with the professional agencies may be adopted. Existence or otherwise, of minimum marks in the interview is another aspect. A candidate who secured fairly high marks in the written test would not be selected if he is awarded less than minimum marks in the interview.

11. Be that as it may, having reserved to itself, the power to decide the ratio between written test and the interview, the Commission was required to act fairly, and in

accordance with law. It is on account of this belief; that the candidates participated in the selection and interview, and may not have felt the necessity to seek relief, well in advance.

12. If it ultimately emerges that the selection process undertaken by the Commission is not in accordance with law, and the traces of such illegality were not evident from the notification, the principle of estoppel or acquiescence cannot be pressed into service when the aggrieved candidate approaches the Tribunal or Court. Therefore, if it emerges that the steps taken by the Commission, subsequent to the notification are not in accordance with law, the candidate aggrieved by such action can certainly approach the Tribunal.

13. In this context, it is relevant to refer to the judgment of Hon'ble Supreme Court in ***The Director General, Indian Council for Agricultural Research and Ors. vs. D. Sundara Raju*** (2011) 6 SCC 605. Para 47 thereof, reads as under:-

“47. The respondent was not disclosed by the appellate either that the interview would be held for evaluating personal or intellectual qualities that attribute a Scientist and that it shall carry 50% of the total marks. This is controverted position. Had the appellants disclosed the method of evaluation the respondent may have challenged the same before participating in the selection process.”

14. Identical situation obtains in the case on hand. Therefore, the objection raised by the respondents as to the maintainability cannot be sustained. Now, it needs to be seen as to whether any illegality has crept in into the selection process.

15. The ratio to be fixed between written test and the interview in the context of selection to civil posts was a matter of serious debate for decades together. The Courts have been making endeavor to reduce the extent of importance to be given to interview so that a selection takes place purely on merit and on the touchstone of objectivity; and the element of subjectivity is reduced to the minimum.

16. In ***Ashok Kumar Yadav and Ors. vs. State of Haryana and Ors.*** 1985 (4) SCC 147, the Hon'ble Supreme Court was dealing with the selections undertaken by Haryana State Public Service Commission. One of the grounds urged in that case was as regards excessive allocation of marks for viva voce, i.e., interview. In that case for Ex-servicemen, 33.3% was stipulated as minimum in the interview, and 22.2% for others. At the relevant point of time, the minimum stipulated marks for viva voce/interview, for selections conducted by the UPSC

was 12.2%. In para 30 of the judgment, their Lordships summed up the discussion. The same reads as under:-

“30. Now if the allocation of such a high percentage of marks as 33.3 in case of ex-service officers and 22.2 in case of other candidates, for the viva voce test is excessive, as held by us, what should be the proper percentage of marks to be allocated for the viva voce test in both these cases. So far as candidates in the general category are concerned we think that it would be prudent and safe to follow the percentage adopted by the Union Public Service Commission in case of selections to the Indian Administrative Service and other allied services. The percentage of marks allocated for the viva voce test by the Union Public Service Commission in case of selections to the Indian Administrative Services and other allied service is 12.2. and that has been found to be fair and just, as striking a proper balance between the written examination and the viva voce test. We would therefore direct that hereafter in case of selections to be made to the Haryana Civil Services (Executive Branch) and other allied services, where the competitive examination consists of a written examination followed by a viva voce test, the marks allocated for the viva voce test shall not exceed 12.2 per cent of the total marks taken into account for the purpose of selection. We would suggest that this percentage should also be adopted by the Public Service Commissions is other States, because it is desirable that there should be uniformity in the selection process throughout the country and the practice followed by the Union Public Service Commission should be taken as a guide for the State Public Service Commissions to adopt and follow. The percentage of marks allocated for the viva voce test case of ex-service officers may, for reasons we have already discussed, be somewhat higher than the percentage for the candidates belonging to the general category. We would therefore direct that in case of ex-service officers, having regard to the fact that they would ordinarily be middle aged persons with personalities fully developed the percentage of marks allocated for the viva voce test may be 25. Whatever selections are made by the Haryana Public Service Commission in the future shall be on the basis that the marks allocated for the viva voce test

shall not exceed 12.2 per cent in case of candidates belonging to the general category and 25 per cent in case of ex-service officers.” (emphasis supplied)

In para 31, the importance of maintaining such decent balance between written test and viva voce was explained and general direction were issued to all the State Governments to ensure that the law laid down therein is followed. The paragraph reads as under:-

“31. Before we part with this judgment we would like to point out that the Public Service Commission occupies a pivotal place of importance in the State and the integrity and efficiency of its administrative apparatus depends considerably on the quality of the selections made by the Public Service Commission. It is absolutely essential that the best and finest talent should be drawn in the administration and administrative services must be composed of men who are honest, upright and independent and who are not swayed by the political winds blowing in the country. The selection of candidates for the administrative services must therefore be made strictly on merits, keeping in view various factors which go to make up a strong, efficient and people oriented administrator. This can be achieved only if the Chairman and members of the Public Service Commission are eminent men possessing a high degree of calibre, competence and integrity, who would inspire confidence in the public mind about the objectivity and impartiality of the selections to be made by them. We would therefore like to strongly impress upon every State Government to take care to see that its Public Service Commission is manned by competent, honest and independent persons of outstanding ability and high reputation who command the confidence of the people and who would not allow themselves to be deflected by any extraneous considerations from discharging their duty of making selections strictly on merits. Whilst making these observations we would like to make it clear that we do no for a moment wish to suggest that the Chairman and members of the Haryana

Public Service Commission in the present case were lacking in calibre, competence or integrity.”

In ***P. Mohanan Pillai v. State of Kerala and Ors.*** (2007)

9 SCC 497, the notification fixed 50% marks for the interview. The Hon’ble Supreme Court observed as under:-

“16. In this case allocation of marks for interview was in fact misused. It not only contravened the ratio laid down by this Court in **Ashok Kumar Yadav** and subsequent cases, but in the facts and circumstances of the case, it is reasonable to draw an inference of favouritism. The power in this case has been used by the appointing authority for unauthorized purpose. When a power is exercised for an unauthorized purpose, the same would amount to malice in law.”

In ***D. Sundara Raju’s case*** (*supra*), the Hon’ble Supreme Court referred to the judgment in ***Ashok Kumar Yadav’s case*** (*supra*).

In ***K. Manjusree vs. State of A.P. and Ors.***, reported in AIR 2008 SC 1470, the rules did not stipulate the requirement of obtaining minimum marks in the interview. However, at a later stage, the requirement as to obtaining minimum marks in the interview was introduced, and that, in turn, affected the entire selection process. The unsuccessful candidates approached the High Court, but the writ petition was dismissed. The Hon’ble Supreme Court allowed the civil appeal and has

set aside the judgment of the High Court. The relevant paragraph reads as under:-

“32. We, therefore, find that the judgment of the Division Bench of the High Court has to be set aside with a direction to the AP High Court to redraw the merit list without applying any minimum marks for interview. The merit list will have to be prepared in regard to 83 candidates by adding the marks secured in written examination and the marks secured in the interview. Thereafter, separate lists have to be prepared for each reservation category and then the final selection of 10 candidates will have to be made. The scaling down of the written examination marks with reference to 75 instead of 100 is however, proper.”

In that case, the percentage of marks allocated for viva voce was 25%, and that in the instant case, it is 50%.

17. Learned standing counsel for the Commission relied upon certain precedents to support his contention. First of such judgments is the one in ***Lila Dhar vs. State of Rajasthan and Others*** (1981) 4 SCC 159. As a matter of fact, this judgment constituted the basis for the one in ***Ashok Kumar Yadav*** (supra). Even while upholding the practice of allocating marks for interview in the process of selection to any public employment, the Hon’ble Supreme Court felt that the marks allocated for interview must not exceed 25%. The relevant portion reads as under:-

“Yet another factor worthy of consideration is that the candidates expected to offer themselves for selection are not raw graduates freshly out of college

but are persons who have already received a certain amount of professional training. The source-material is such that some weightage must be given to the interview-test and can it possibly be said that twenty-five per cent of the total marks is an exaggerated weightage.”

In ***Anzar Ahmad vs. State of Bihar and Others*** (1994) 1

SCC 150, the Hon’ble Supreme Court referred to various judgments on the issue, and held that the marks allocated for viva voce should not exceed 15%. Para 15 of the judgment reads as under:-

“15. Applying the aforesaid decision in Ashok Kumar Yadav case this Court has held that in the matter of selection for two posts of Excise and Taxation Inspectors on the basis of written test and viva voce test where candidates are fresh from college/school the allocation of marks for viva voce test should not exceed 15 per cent.”

In ***Mohinder Sain Garg vs. State of Punjab and Others***

(1991) 1 SCC 662, the Hon’ble Supreme Court held as under:-

“33. In our view *Ashok Kumar Yadav case* clinches the issues raised before us and being a decision given by four Judges is also binding on us. That was a case relating to public employment and a direction was given to all the Public Service Commissions to follow the marks allocated for viva voce test as done by the UPSC which was 12.2 per cent of the total marks. *Ashok Kumar Yadav case* was decided in 1985 and we fail to understand as to why the State of Punjab did not follow the same for making selections in 1989 for the posts of Excise and Taxation Inspectors. It is no doubt correct that the selection of Taxation and Excise Inspectors is done by a subordinate selection body and not by Public Service Commission yet no valid reason has been given before us by learned counsel for the respondents as to why the principle enunciated in

Ashok Kumar Yadav case should not be applied in these cases as well. Even if *Ashok Yadav* case may not in terms apply in the cases before us to the extent of laying down 12.2 per cent of the total marks for viva voce test which was made applicable for selection to be made by UPSC, we deem it proper to lay down after taking in view its dictum of all the authorities decided so far that the percentage of viva voce test in the present cases at 25 per cent of the total marks is arbitrary and excessive. There could be no gainsaying that viva voce test cannot be totally dispensed with, but taking note of the situation and conditions prevailing in our country, it would not be reasonable to have the percentage of viva voce marks more than 15 per cent of the total marks in the selection of candidates fresh from college/school for public employment by direct recruitment where the rules provided for a composite process of selection namely written examination and interview.”

18. A perusal of the judgments, referred to above, discloses that the very basis for fixation of the percentage of marks to be allocated to interview at 15% was the practice that was being followed by the UPSC, which allocated 12.2% marks for interview in the selections undertaken by it to various services. The Hon’ble Supreme Court had, in fact, exhorted all the State Public Service Commissions and other recruiting agencies to follow and emulate the UPSC whom, it has treated as an ideal agency.

19. In ***Ashok Kumar Yadav’s case*** (supra), allocation of 22.2% marks for interview was held to be excessive on the touchstone of the marks allocated by the UPSC, i.e., 12.2%. Similar references were made to UPSC in other

judgments also. Even in the wildest of dreams, one cannot expect the UPSC, a constitutional body to remove itself from the position of an ideal employer, that too after the Hon'ble Supreme Court treated it as a role model, and go to the extent of allocating 50% of marks for interview, that too without revealing it in the notification. As though that is not sufficient, the minimum marks to be secured in the interview were stipulated when the selection process is halfway through. For all practical purposes, the written test was reduced to the level of irrelevance and the selection process was shadowed by subjectivity.

20. Obviously, the Commission knew very well that in case it discloses in the notification that 50% marks would be allocated for interview, it is bound to be challenged, in all probability. Therefore, it has kept the candidates in total dark. The secrecy which it was required to maintain, in the context of conducting of examination was applied to a vital condition of selection, namely, allocation of marks for interview, and stipulation as to minimum marks. The result of such a secret operation has ultimately emerged on the expected lines. The applicant who has secured 75% marks in the written test (highest being 79) was awarded the least, that too below the minimum marks in the interview, i.e., 40, and a candidate who secured 47

marks in the written test was awarded 74 marks in the interview.

21. Few other glaring examples are in respect of two candidates who secured 51 & 52 marks in the written test. They were awarded 50 & 57 marks in the interview, and though their aggregate was 101 & 109 respectively, as against the aggregate of 115 of the applicant, those two candidates were selected and not the applicant. The reason is that the applicant is the only candidate who was awarded less than minimum marks in the interview, and all others were awarded between 50% to 74%. This kind of exercise does not auger well for a premier and reputed agency like the UPSC.

22. It may not be difficult for them to snub a solitary, unsuccessful, and unemployed candidate with the power at their command. However, what is needed for enhancing the reputation and transparency in such premier organizations is a semblance of introspection, and an effort to ensure the transparency in the exercise. With impunity, the UPSC has disregarded the principles laid down by the Hon'ble Supreme Court in successive judgments.

23. On the application of the principles laid down by the Hon'ble Supreme Court in the catena of decisions, some of which are referred to above, the inevitable result that would follow is that the entire selection of 57 candidates who are impleaded as private respondents is vitiated. The allocation of marks for interview for the selection in question, needs to be reworked and downgraded, to be 15% of the total allocation. For this purpose, the marks that have been awarded in the interview can be taken on basis and must be slashed down to 15% of the total. The requirement as to minimum marks must be ignored. In the entire process, in all probability, only one candidate is likely to be displaced on account of selection of the applicant, and if for any reasons any selected candidate has not joined, or left service after joining, such candidate can also be accommodated.

24. We, therefore, allow the OA; (a) setting aside the selections made in pursuance of the Advertisement No.51/2013 to the posts of Assistant Labour Commissioner (Central) and equivalent; (b) directing the UPSC to redo the exercise by restricting the marks to be allocated for interview to 15%, without insisting on minimum marks therein, and then to publish the results; and (c) observing that if any of the private respondents

needs to be displaced on account of such an exercise, the possibility of adjusting him against the existing or subsequent vacancy may be considered, by addressing the department concerned. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/