

STATE OF KARNATAKA AND ANOTHER

v.

M. FARIDA AND OTHERS

August 23, 1976

[A. N. RAY, C.J., P. N. BHAGWATI, A. C. GUPTA, S. MURTAZA FAZAL ALI AND JASWANT SINGH, JJ.]

Karnataka Recruitment of Gazetted Probationers (Class I and II Posts appointment by competitive Examination) Rules 1966—Rule 9 read with Part IV of Schedule II—Scope of—Awarding block marks in interview—If violative of the rule.

Rule 9 of the Karnataka Recruitment of Gazetted Probationers (Class I and II Posts appointment by Competitive Examinations) Rules, 1966, Prescribes a written examination for selection of candidates for the service followed by a personality test. The qualities to be judged at the time of *viva voce*, stipulated in Part IV of Schedule II to the rules, are mental alertness, critical powers of assimilation, clear and logical exposition etc.

In their writ petitions before the High Court the respondents, who were the unsuccessful candidates in the selections, impugned the personality test on the ground that the Selection Committee did not award separate marks for each of the seven qualities required to be judged in the candidates at the test. Following the decision of this Court in *A. Periakaruppan & Anr. v. State of Tamil Nadu & Ors.* the High Court allowed the petitions and directed the Service Commission to hold a fresh personality test.

On the question whether r. 9 read with Part IV of Schedule II required the Selection Committee to award separate marks for the seven qualities :

Allowing the State's appeal,

HELD : (1) It would not be correct to assume as a general proposition that in every case where the interviewing body is asked to take into consideration several specified qualities, they must be of equal value and separate marks should be allotted under each head. Where the rules do not contain a clear direction, it would be reasonable to suppose that the intention is that there should be a block assessment on an integrated test. [327 B]

In the instant case the interviewing body was required to award a block mark on a total impression of the personality of each candidate giving due consideration to the seven qualities specified in Part IV. Part IV of the Schedule never intended that separate marks should be allotted for the seven qualities stated therein. [328 F]

(2) Personality is commonly understood as an aggregate of traits that identifies a person and distinguishes him from others. Quite often with some practical aim, emphasis is laid on some of the attributes. The end result may not be an assessment of the whole personality, but attributes are abstracted for study in an attempt to evaluate the man for the purpose in view. [328 C]

In the instant case the qualities are mentioned only as guide, as indicating the attributes to be kept in view in assessing the personality of the candidates. It is hardly possible in the test contemplated to allocate separate marks for each of the various qualities specified because most of them overlap and are so intermixed that they cannot be separated. The test carries a maximum mark of 200; it is a little absurd to suppose that the seven qualities to be judged at the interview are of equal value each carrying 28-4/7 marks. [328 E]

A. Periakaruppan & Anr. v. State of Tamil Nadu & Ors. [1971] 2 SCR 430 distinguished and held inapplicable.

- A *R. Chitrlekha and Anr. v. State of Mysore & Ors.* [1964] 6 S.C.R. 368, 382 referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 1261-1264 of 1975.

- B (From the Judgment and Order dated 1/2.7.1975 of the Karnataka High Court in Writ Petition Nos. 1202, 1607, 1608 and 2739/74 respectively).

V. P. Raman, Addl. Sol. Genl. (in CA. 1261/75) and *B. R. G. K. Achar* (In CAs. 1261-1264/75) for the Appellants.

D. V. Patel (In CA. 1261/75), *S. S. Khanduja & S. K. Jain* for Respondents 1-2 in CA. 1261/75 and Respondent No. 1 in CAs. 1263-1264/75.

- C *V. P. Raman*, Addl. Sol. General and *Girish Chandra* for Intervener in CA 1261/75.

The Judgment of the Court was delivered by

- D GUPTA, J.—These are four appeals brought on certificates of fitness granted by the High Court of Karnataka. The question which according to the High Court needs to be decided by this Court was framed as follows :

- E “whether in the personality test of candidates for selection to public appointments, the selecting authority should allot separate marks for each of the seven qualities required to be judged in a candidate or whether it is permissible for the selecting authority to allot marks in a lump in each personality test.”

- F Considering the facts of these cases which we will presently state, the question seems to have been framed a little too broadly. The Karnataka Public Service Commission (called the Commission hereinafter) by its notification dated September 7, 1972 called for applications for the combined competitive examinations under the Karnataka Recruitment of Gazetted Probationers (Class I and II Post appointment by Competitive Examinations) Rules, 1966. In response to this notification, the respondents in these appeals along with others applied for selection. The Commission held a written examination followed by a personality test as provided by rule 9 of the rules and sent a list of 30 candidates whom they selected for appointment as class I gazetted probationers, and another list of 88 candidates for appointment as class II gazetted probationers. The manner in which the personality test is to be held is laid down in Part IV of Schedule II to Rules, the relevant portion of which is as follows :

- H “Personality test carrying a maximum marks of 200 for all Services. The candidates will be interviewed by the Commission who will have before them their particulars such as qualification, experience, age etc. They will be asked questions of general interest, the object of the *viva voce* is to assess the personal suitability of the candidates for the service or services for which they have applied. The

qualities to be judged at the time of *viva voce* are the mental alertness, critical powers of assimilation, clear and logical exposition, balance of judgment, variety and depth of interest, ability for social cohesion and leadership and intellectual depth of the candidates.”

Five of the respondents in the four different appeals who were not selected, M. Farida, P. V. Mohan, B. R. Kulkarni, L. V. Dharmayat and M. R. Devappa had applied for the posts of gazetted probationers, class II, two of them, Farida and Mohan, were also applicants for the class I post. They filed writ petitions in the Karnataka High Court, Farida and Mohan jointly, and each of the three others separately, challenging the selections made. Their common grievance was that the personality test held by the Commission was invalid as the selection committee did not award separate marks for each of the seven qualities which were required to be judged in the candidates at the test. Admittedly, the selection committee did not allot separate marks for each of the specified qualities, but awarded a block mark to each candidate in assessing his personality with reference to those qualities. The argument for the writ petitioners in the High Court was that the personality test as required under the Rules was an objective test based upon seven factors or criteria, and, therefore, it was essential that separate marks were allotted in respect of each such factor or criterion. In support of this contention reliance was placed on a decision of the Mysore High Court, *D. G. Viswanath v. Chief Secretary, Government of Mysore*,⁽¹⁾ and the decision of this Court in *A. Periakaruppan & Anr. v. State of Tamil Nadu & Ors.*⁽²⁾ which appears to affirm the view expressed in *Viswanath's* case. On behalf of the State of Karnataka it was contended that the seven qualities referred to in Part IV of schedule II were merely different facets of the integrated personality of a candidate which could not easily be demarcated from one another, and, therefore, awarding a block mark on an appraisal of the personality of the candidate as a whole was the correct method. The High Court found that there was “considerable force in the contention of the learned Government advocate”, but felt that in view of the decision in *Periakaruppan's* case the writ petitions must succeed, and by a common judgment allowed the petitions directing the State of Karnataka and the commission to hold a fresh personality test. These appeals arise out of these four writ petitions.

In *Periakaruppan's* case this Court was considering a case of admission to certain medical colleges in the State of Tamil Nadu. In that case the selection committees were authorised to give a maximum of 75 marks at the interview on the basis of the following tests :

1. Sports or National Cadet Corps activities;
2. Extra-curricular special services;
3. General physical condition and endurance;
4. General ability; and
5. Aptitude.

- A *Periakaruppan's* case came up on a writ petition before this Court. The petitioners in that case challenged the selections, *inter alia*, on the ground that the selections were manipulated by the Government. This Court came to the conclusion that the allegations of *malafide* had not been established, but by its judgment and order dated September 23, 1970 directed the State of Tamil Nadu to constitute a separate committee for selection on the view that as the previous selection
- B committee had not divided the "interview" marks under the aforesaid five different heads but awarded marks in a lump, the interview was vitiated. This Court accordingly ordered that the Committee should allot separate marks under the five heads mentioned in the rule. *Periakaruppan's* case approved the decision of the Mysore High Court in *Viswanath's* case. The Mysore High Court had held that it could not be said that the Government had conferred an unguided power
- C on the selection committees and, therefore, "in the absence of specific allocation of marks for each head, it must be presumed that the Government considered that each of the heads . . . as being equal in importance to any other," and that it must be inferred that the intention of the Government was that each one of those heads should carry equal marks. It appears that *Periakaruppan* came to this Court a second time challenging the selection made by the new selection
- D committee constituted pursuant to the order of this Court dated September 23, 1970; one of the grounds of challenge was that despite the direction in the earlier judgment, the selection committee did not distribute the "interview" marks equally among the five heads. The second writ petition made by *Periakaruppan* also succeeded and this Court again quashed the impugned selection.⁽¹⁾
- E Mr. Raman, Additional Solicitor General of India, appearing for the appellants and the intervener, Union Public Service Commission, sought to distinguish *Parliakaruppan's* case from the cases before us on the same ground on which the Government Advocate made a similar attempt in the High Court. Mr. Raman submitted that admission to technical or professional courses with which *Periakaruppan's* case was concerned stood on a different footing from selection of
- F candidates for administrative services as in these cases. It was argued that the test in the former case may be regarded as an objective test but in the latter it has to be subjective because the qualities specified here are intangible qualities. We do not think it is possible to distinguish *Periakaruppan's* case on this ground. For, as pointed out in the judgment under appeal, some of the qualities for test in *Viswanath's* case which *Periakaruppan* approved, were also intangible, like aptitude and personality. Further, even where the qualities to be tested are
- G intangible qualities, if the relevant rule required that separate marks should be allotted for each, the interviewers have to follow the rule and do the best under the circumstances.

- H Whether a block mark should be given after the interview on a consideration of the qualities evinced by a candidate, or marks are to be allotted separately under each head depends, in our opinion, upon the rule regulating the examination. In *Periakaruppan's* case it was held that the intention of the Government was that each of the

(1) [1971] 3 S.C.R. 449.

specified qualities should carry equal marks. In these appeals we have not been called upon to decide whether the rule concerned in *Periakaruppan's* case was correctly interpreted. We do not however think that it would be correct to assume as a general proposition that in every case where the interviewing body is asked to take into consideration several specified qualities, they must be of equal value and separate marks should be allotted under each head; on the contrary, in our opinion, where the rules do not contain a clear direction, it would be reasonable in such cases to suppose that the intention is that there should be a block assessment on an integrated test. It was observed in *Periakaruppan's* case that conceding to the selection committee the right to award block marks would enable the selection committee to act arbitrarily and allot marks "as it pleased". It is not clear how the position is altered if the committee has to allot marks separately under each head if it wished to proceed "as it pleased". On this point it may be relevant to refer to what this Court said in *R. Chitralekha and Anr. v. State of Mysore & Ors.*(¹)

"In the field of education there are divergent views as regard the mode of testing the capacity and calibre of students in the matter of admissions to colleges. Orthodox educationists stand by the marks obtained by a student in the annual examination. The modern trend of opinion insists upon other additional tests, such as interview, performance in extra-curricular activities, personality test, psychiatric tests etc. Obviously we are not in a position to judge which method is preferable or which test is the correct one. If there can be manipulation or dishonesty in allotting marks at interviews, there can equally be manipulation in the matter of awarding marks in the written examinations. In the ultimate analysis, whatever method is adopted its success depends on the moral standards of the members constituting the selection committee and their sense of objectivity and devotion to duty. This criticism is more a reflection on the examiners than on the system itself. The scheme of selection, however perfect it may be on paper, may be abused in practice. That it is capable of abuse is not a ground for quashing it."

We do not think that the total arrived at by adding up the separate marks awarded for the different qualities is always a true measure of a candidate's suitability. An illustration from *Periakaruppan's* case would serve to clarify the point. Of the five qualities mentioned there, suppose a candidate secures full 15 marks for extra-curricular activities but fails to get any credit under any of the other four heads, and another candidate gets a few marks under each head aggregating, say, 14 marks, one mark less than the total marks secured by the first candidate. Which of the two should be considered more qualified for admission to medical profession? It would take great courage, we think, to hold that the candidate who secured 15 marks was more suitable.

(1) [1964] 6 S.C.R. 368 (p. 382).

- A** The question therefore is whether rule 9 read with Part IV of Schedule II of the Mysore Recruitment of Gazetted Probationers (Class I and II Posts Appointment by Competitive Examinations) Rules, 1966 required the selection committee to award separate marks for the seven qualities mentioned in Part IV. Rule 9, so far as it is relevant for the present purpose, says that the Commission shall call for a personality test five times the number of candidates as there are vacancies in the services in the order of merit on the basis of the results of written papers. Personality is commonly understood as an aggregate of traits that identifies a person and distinguishes him from others. Quite often with some practical aim, like selecting the most promising students for admission to particular courses or picking out the suitable ones from a group of job applicants, emphasis is laid on some of the attributes. The end result may not be an assessment of the whole personality, but attributes are abstracted for study in an attempt to evaluate the man for the purpose in view. Part IV of Schedule II which provides the details of the test calls it a personality test, the object of which is to assess the personal suitability of the candidates for the service or services for which they have applied. The candidates will be asked questions of general interest, on the answers to which, it appears, the assessment would depend. It is further provided that the qualities to be judged are : mental alertness, critical powers of assimilation, clear and logical exposition, balance of judgment, variety and depth of interest, ability for social cohesion and leadership and intellectual depth. It seems to us in the context that the qualities are mentioned only as guide, as indicating the attributes to be kept in view, in assessing the personality of the candidates. It seems hardly possible in the test contemplated to allocate separate marks for each of the various qualities specified, because most of them overlap one another and are so intermixed that they cannot be separated. Also, the test carries a maximum mark of 200; it seems a little absurd to suppose that the seven qualities to be judged at the interview are of equal value, each carrying $28 \frac{4}{7}$ marks. This further confirms the view that Part IV of Schedule II never intended that separate marks should be allotted for the several qualities stated therein.
- B**
- C**
- D**
- E**
- F** Reading Rule 9 with Part IV of Schedule II, we are of opinion that the interviewing body was required to award a block mark on a total impression of the personality of each candidate after giving due consideration to the seven qualities specified in Part IV. For these reasons we think that the appeals should succeed. We therefore allow the appeals and dismiss the writ petitions. There will be no order as to costs.

G

P.B.R.

Appeals allowed.