

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) 4835/2011 & CM 9816/2011 (for stay)

Reserved on: August 8, 2011
Decision on: September 1, 2011

SUBHASH BALODA & ORS. Petitioners
Through: Mr. R.K. Saini with
Mr. Sitab Ali Chaudhary, Advocates.
versus

LOK SABHA SECRETARIAT & ORS. Respondents
Through: Ms. Maninder Acharya, Advocate for
R-1/Lok Sabha Secretariat
Ms. Zubeda Begum with
Ms. Sana Ansari, Advocates for R-2 and
R-3/ Rajya Sabha Secretariat.

CORAM: JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be
allowed to see the judgment? No
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

JUDGMENT
01.09.2011

1. With the consent of the learned counsel for the parties, the writ petition was taken up for final hearing on 8th August 2011.

2. Nine Petitioners, who were unsuccessful in being selected to the thirty-seven vacancies in the post of Security Assistant Grade-II ('SAG-II') in the Lok Sabha Secretariat (Respondent No.1) and nineteen vacancies in that post in the Rajya Sabha Secretariat (Respondent No. 2) have filed this writ petition seeking a writ of certiorari to quash the action of the Respondents in not offering appointments to the Petitioners and for a mandamus directing the said Respondents to place the Petitioners in the merit list and offer them appointments to the said posts against available vacancies.

3. The Petitioners are working as Head Constable/Constable (Executive) in the Delhi Police for several years. Petitioner Nos. 2, 5 and 6 belong to the General category. Petitioner Nos. 1, 4, 7 and 9 belong to the OBC category. Petitioner No. 3 belongs to the

Scheduled Caste ('SC') category and Petitioner No. 8 to the Scheduled Tribe ('ST') category.

4. Respondent Nos. 1 and 2 issued an advertisement, No. 4 of 2001, inviting applications from eligible candidates for various posts in Respondent Nos. 1 and 2. Serial No. 5 of the advertisement included thirty-seven vacancies in the post of SAG-II in Respondent No.1 and nineteen vacancies in that post in Respondent No. 2. The selection procedure included physical measurement tests, field tests, descriptive type written papers and a personal interview. A candidate had to qualify every test sequentially to be eligible for the next one. For instance, only those found fit in the physical measurement test would be allowed to appear in the written examination. The written examination comprised of Paper-I, General Studies (100 marks), and Paper-II comprising of English essay, precis and grammar (100 marks). Only those who secured the minimum qualifying marks in each paper and the minimum aggregate in the written papers would be called for the personal interview.

5. The requisite standard for qualification in the written test and interview was indicated in para-15 of the advertisement as under:

“Cut Off Percentage Of Marks: The minimum cut off percentages of marks in Written Test and Personal Interview in an examination is 50%, 45% and 40% for vacancies in General, OBC and SC/ST categories, respectively. The above percentages are relaxable by 5% in case of physically handicapped persons of relevant disability and category for appointment against the vacancies reserved in Lok Sabha Secretariat for physically handicapped persons. These percentages are the minimum marks which a candidate is required to secure in each paper/component and aggregate in the written test and in aggregate in the personal interview. However, the cut off percentages may be raised or lowered in individual component/paper/aggregate to arrive at reasonable vacancy: candidate ratio.”

6. The personal interview carried twenty-five marks. Selection was to be made on the basis of overall performance of the candidates both in the written test as well as personal interview, subject to the availability of vacancies. It was further stipulated that candidates would have to secure the minimum qualifying marks in the interview, which, according to the Petitioners, was in violation of the Lok Sabha Secretariat (Method of Recruitment and Qualification for Appointment) Amendment Order, 2007 which amended the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955 ('Lok Sabha Rules') and the Rajya Sabha (Methods of Recruitment and Qualifications for W.P. (C) No.4835 of 2011

Appointment) Order, 2009 ('Rajya Sabha Order'). The Petitioners point out that insofar as the Lok Sabha Rules are concerned, the selection was supposed to take place through an open competitive examination from amongst candidates possessing a Bachelor's degree in any discipline and the physical standards/skills as specified in the Rules. The Lok Sabha Rules indicated the "desirable qualifications" as: a 'C' Certificate in NCC or sportsmen of distinction who have represented a state or the country at the national or international level or who have represented a university in a recognised inter-university tournament. The desirable qualification indicated in the Rajya Sabha Order was:

“(ii) Certificate in computer course recognised by All India Council for Technical Education (AICTE)/Department of Electronics Accreditation of Computer Courses (DOEACC) or courses equivalent to 'O' Level in terms of syllabus and duration of course as prescribed by DOEACC”

7. The Petitioners applied for the SAG-II post and qualified in the physical measurement test, field test as well as the written test. They were then called for a personal interview on 28th and 29th May 2011. They were asked to produce the relevant documents and testimonials as under:-

- “(i) Original Certificates of Matriculation or equivalent examination as proof of date of birth.
- (ii) All original certificates of Educational and other qualifications.
- (iii) All original certificates of NCC/Sports.
- (iv) Original Certificate of Hill area resident, if any, issued by the competent authority.
- (v) Original Caste Certificate issued by the competent authority (in case of SC, ST and OBC candidates).”

8. The final result of the recruitment process was declared by the Respondents on 16th June 2011. Twenty-seven candidates for the post of SAG-II in Respondent No.1 and thirteen candidates for the post of SAG-II in Respondent No. 2 were declared successful. Ten vacancies in the post of SAG II-in Respondent No. 1 and six vacancies in the post of SAG-II in Respondent No. 2 remained vacant. On examining the overall marks obtained by each of them, the Petitioners learnt that each of them had obtained less than 45% marks in the interview and were therefore not selected. On comparing the marks obtained by them with those of the successful candidates, the Petitioners learnt that although the Petitioners had secured higher marks in the overall performance, i.e., the written test and

the interview combined, the candidates who were successful had secured more than them in the interview. The Petitioners contend that candidates having less overall merit than them had been selected and this was unjust and discriminatory and violative of the Petitioners' fundamental rights under Article 14 and 16 of the Constitution.

9. When this case was first heard on 13th July 2011, both Ms. Maninder Acharya, learned counsel appearing for Respondent No. 1 and Ms. Zubeda Begum, learned counsel appearing for Respondent No. 2, pointed out that the issues raised in the present petitions stood covered by the judgment of the learned Single Judge of this Court in ***Mahesh Kumar v. Union of India* 151 2008 DLT 353** ('the Single Judge order'), which was affirmed in appeal by the Division Bench by its order dated 12th March 2009 dismissing LPA No. 346 of 2008 in ***Mahesh Kumar v. Union of India*** ('the DB order'). It was submitted that both the said judgments dealt with the 2006 selection to the said post of SAG-II in Respondent No.2. The points urged in both the petitions were the same.

10. Mr. R.K. Saini, learned counsel for the Petitioners, however, submitted that the points raised in the present petition were different. He then filed an additional affidavit dated 26th July 2011 along with which he placed on record the information supplied to the Petitioners by the Respondents under the Right to Information Act, 2005 ('RTI Act') which revealed that the twenty-five marks in the interview were divided as under:-

“(i)	Dress Manners and Appearance	6 marks
(ii)	Behaviour in communication (whether Courteous and disciplined)	6 marks
(iii)	General Awareness and knowledge of Duties involved in security service	6 marks
(iv)	NCC & Sports	5 marks
(v)	Certificate in Computer Operations	2 marks
	Total	25 marks

11. The additional affidavit of the Petitioners states that none of the Petitioners, except Petitioner No. 9 Mahesh Yadav, possessed an NCC/Sports Certificate or a Certificate in the 'Computer Application'. Secondly, five marks allotted for the NCC/Sports Certificate and two marks allotted for Computer Operations related certificates were not applicable to Petitioner Nos. 1 to 8. Therefore, in the interview, the candidates should

have been required to secure 50% out of the eighteen marks i.e., after the exclusion of seven marks for NCC & Sports, and Certificate in Computer Operations. Mr. Saini was at pains to point out that each of the Petitioners had, in fact, secured more than 50% marks in the interview if the above seven marks for the certificates of 'desirable qualifications' were excluded. He sought to place reliance upon the decision of the Supreme Court in ***Ramesh Kumar v. High Court of Delhi* (2010) 3 SCC 104**.

12. Mr. Saini sought to distinguish the judgments of this Court both by the learned Single Judge as well as the Division Bench in ***Mahesh Kumar v. Union of India*** pertaining to the selections made in 2006 to the post of SAG-II. He submitted that the splitting up of the twenty-five marks for the interview into eighteen for interview and seven for certificates was not indicated in the advertisement and could not be subsequently introduced, i.e., after the commencement of the selection process. Relying on the decisions in ***State of U.P. v. Synthetics and Chemicals* (1991) 4 SCC 129** and ***Union of India v. Dhanwanti Devi* (1996) 6 SCC 44**, Mr. Saini submitted that the decision in ***Mahesh v. Union of India*** did not deal with the point now being raised viz., that with seven out of twenty-five marks allotted for the interview being hived off for certificates of NCC and Computer Operations, and with this having nothing to do with the personal interview, the effective interview marks got reduced to eighteen. As long as each candidate could show that he had secured minimum qualifying percentage (50% for General category, 45% OBC and 40% SC/ST) of the eighteen marks in the interview, it was the overall performance which then had to be taken into account in order to determine their eligibility for appointment. He submitted that there were still vacancies, and therefore, the grant of relief to the Petitioners would not prejudice anyone else.

13. Ms. Zubeda Begum, learned counsel appearing for Respondent No. 2 and Ms. Maninder Acharya appearing for Respondent No. 1 submitted that the judgments of this Court in ***Mahesh Kumar*** completely cover the point against the Petitioners. It is submitted that the verification of the certificates was done on the basis of the notified eligibility conditions, which clearly mentioned that holding of an NCC/Sports Certificate and a Computer Operation Certificate was a desirable qualification for appointment to the post of SAG-II in Respondent No. 2, and that the holding of an NCC/Sports Certificate was a desirable qualification for the post in Respondent No. 1. It was also

submitted that having appeared for the selection, the Petitioners cannot turn around and challenge the criteria only because they were unsuccessful.

14. The first issue that arises for consideration is whether the issues raised in the present petition stands covered by the Single Judge order and/or the DB Order in ***Mahesh Kumar v. Union of India***?

15. The Petitioners in ***Mahesh Kumar*** had applied for selection to the post of SAG-II in the Rajya Sabha Secretariat pursuant to an advertisement published in the Employment News on 22nd to 28th July 2006. The qualification requirement was no different from what it is in the present advertisement. The Petitioners qualified in the written examination and were called for interview, but they were finally not selected. They approached this Court with a writ petition challenging their non-selection. In the reply filed by the Respondents, it was pointed out that the Petitioners had not secured the prescribed 50% marks in the personal interview. Petitioner Nos. 1 and 2 therein had secured 9.34 and 11 marks respectively out of twenty-five, whereas the topper had secured 14.33 marks, and the last qualified candidate in the General Category had secured 15.01 marks. The contention of the Petitioners was that the personal interview could not be the sole determining factor in deciding the relative eligibility of a candidate for selection to a particular post and that the aggregate marks scored by a candidate in all the four stages/levels should be taken into consideration. It was contended that giving 50% weightage to interview marks amounts to giving 100% weightage and that the same is arbitrary and unconstitutional. The above contention was resisted by the Respondents on the ground that the allocation of marks for interview depended on the nature of service; that admission to service/post cannot be equated with the admission to an academic institution; that the process of selection was decided by the experts in the field and unless there were allegations of *mala fides*, the Court could not interfere. The question formulated by the learned Single Judge was “whether personal interview could be the determining factor in selecting the candidate to the post of Security Assistant Grade-II at Rajya Sabha after the written examination, physical measurement test and physical efficiency test and whether the selection on the basis of interview only is arbitrary and unconstitutional?” The learned Single Judge opined that “for recruitment to the post of security guard at the Rajya Sabha only qualifying in the written test and physical test etc. may not suffice as for such posts, the ... behavior, mannerism, aptitude,

communication skill cannot be overlooked and the same can be appropriately determined by way of an interview giving maximum weightage to it.” It was held that “if aggregate of all the marks is taken into consideration as is being argued by the petitioner even though who has scored less marks in the interview may qualify to get the job on account of the better performance in the written test but he may not be a suitable candidate for the post if his personality and other traits are taken into consideration”. It was held that if aggregate marks was made the criteria for selection, “it would amount to interfering with and diluting the entire selection process which will be beyond the jurisdiction of the court”.

16. The learned Single Judge also negated the contention that the prescribing of 50% as the cut-off mark for the personal interview was unreasonable or arbitrary. As regards not specifying the minimum qualifying marks for the interview in the advertisement itself, the learned Single Judge referred to the judgment in *Siya Ram v. Union of India (1998) 2 SCC 566* in which the Supreme Court held that the determination of what should be the minimum qualification should be left to the experts and courts should not interfere unless exaggerated weight was given to the interview for proven or obvious motives. On the facts of the case before the court in *Mahesh Kumar*, the learned Single Judge found that the decision to assign minimum 50% marks for the interview was arrived at “in a thorough and scientific manner”. The learned Single Judge also opined that “since, different marks were assigned for different facets of interview, not fixing minimum marks for the interview could also lead to disastrous results inasmuch as the candidates not having any manners and knowledge of duties involved in security service for which the total marks were only 23 would have become entitled for selection. With these detailed yardsticks as have been resolved by the respondents it is difficult to infer that oral interview in the present facts is not very satisfactory test for the job of SAG-II in Rajya Sabha.”

17. The learned Single Judge held in *Mahesh Kumar* that prescribing a minimum cut-off for the skills in which marks were awarded in the interview could not be faulted. Fulfilling the minimum standards at each stage was the basis for selection and since the Petitioners failed to score the minimum qualifying marks in the interview, they could not be selected only because their aggregate marks were higher than the marks scored by the last selected candidate. The learned Single Judge further added that, “If the petitioners

found marks to be arbitrary, they should have challenged the same at the very first instance. Instead Petitioners opted to take interview and only because the results of the interview is not favourable to them, they cannot turn round and contend that the minimum marks allocated for interview are arbitrary and that the process of selection is vitiated.”

18. The Division Bench order which affirmed the Single Judge order in ***Mahesh Kumar*** sets out the criteria for awarding of marks in the personal interview in the 2006 selection. The break-up of the assessment parameters in the personal interview are the same as in the present case. Five marks were given for the NCC certificate or sports certificate and two marks for certificate in Computer Operations. The Division Bench agreed with the learned Single Judge that the judgments of the Supreme Court in ***Praveen Singh v. State of Punjab (2000) 8 SCC 633*** and ***Hemani Malhotra v. High Court of Delhi (2008) 7 SCC 11*** were distinguishable. In particular, it was pointed out that in ***Hemani Malhotra***, a new circular concerning minimum interview marks was introduced after the written test was completed, whereas in ***Mahesh Kumar*** it was specified in the advertisement itself.

19. Before advertng to the contentions in the case on hand it is necessary to briefly notice some of the leading judgments on the point. In ***K. Manjusree v. State of Andhra Pradesh (2008) 3 SCC 512***, the selection and appointment to the posts of District and Sessions Judge (Grade II) in Andhra Pradesh Higher Judicial Service was in issue. 75 marks were allocated for the written test and 25 for the interview. Initially a merit list was prepared by not applying any minimum qualifying marks for the written tests or interview. The aggregate marks in both were reckoned. The list which was approved by the Selection Committee was approved by the Administrative Committee of the High Court. However the Full Court asked a Committee comprising two judges to review the list. At this stage the two judge Committee applied a minimum qualifying mark for oral interview. This was held by the Supreme Court to be impermissible. It was held (SCC, 526-27), “What we have found to be illegal is changing the criteria after completion of the selection process, when the entire selection process proceeded on the basis that there will be no minimum marks for the interview.” In ***Hemani Malhotra*** there was no indication in the advertisement about any minimum qualifying mark for the interview. This was introduced by the Selection Committee after the dates for oral interviews were postponed. Only after the unsuccessful candidates applied under the RTI Act they learnt

that they had not been selected as they had failed to secure the minimum qualifying mark in the interview. On the ground that the minimum qualifying mark was not disclosed right at the beginning their non-selection was held to be illegal. In **Ramesh Kumar** the Supreme Court held that in the absence of any contrary provision in the relevant rules minimum qualifying marks for viva voce for appointment to judicial services could not be fixed and that “in case the statutory rules prescribe a particular mode of selection, it has to be given strict adherence accordingly.” Recently in **Barot Vijaykumar Balakrishna v. Modh Vinaykumar Dasarathlal (2011) 7 SCC 308**, the Supreme Court was dealing with the prescription of minimum qualifying marks for viva voce in the selection of Assistant Public Prosecutors in Gujarat. The candidates were informed that out of the thirty marks allocated for interview, ten would be minimum qualifying marks. Although this was not indicated in the rules or the advertisement, the candidates were informed of it before they attended the interview. Although the Supreme Court acknowledged that “the more proper way was to specify the minimum qualifying mark for the viva voce also in the advertisement itself”, it would suffice if the intimation thereof was given to each candidate before the interview took place. The key principle in all the above decisions is that the prescription of a minimum qualifying mark for interview, that is going to be applied across the board, must be disclosed preferably in the advertisement itself or at least to those called for the interview prior to their attending the interview. These decisions also show that unsuccessful candidates can challenge the criteria that was applied at the selection after the selection process is over provided they are able to demonstrate the unfairness of the process.

20. As far as the present case is concerned, conscious of the fact that the judgments of the learned Single Judge and the Division Bench of this Court in **Mahesh Kumar** have upheld the prescription of twenty-five marks for interview and the further requirement that a successful candidate will have to secure at least 50% of the twenty-five marks in the interview to be qualified, Mr. Saini has confined his submissions to urging that as long as a candidate scores the minimum qualifying percentage (i.e 50% for General category, 45% OBC and 40% SC/ST) of the actual marks relatable to the interview, he cannot be eliminated. He points out that in the evaluation sheets given to the interviewers for assessing different trades/skills of the candidate, there were only three columns. The first was: “Dress Manners and Appearance (six marks)”; the second was: “Behaviour and Communication (whether courteous and disciplined) (six marks)” and the third was:

“General Awareness and Knowledge of Duties involved in Security Services (six Marks)”. Each of the candidate was evaluated by the interview board only against the above three criteria which carried a total of eighteen marks. The personal interview, therefore, covered only the above three parameters. Seven marks out of the twenty-five marks in the interview comprised of five marks for NCC/Sports Certificates and two marks for Computer Operations. For allocating these seven marks, the interview was of no relevance. Admittedly, the candidates had to simply produce the certificates which would be checked by a clerk outside where the interview was held and marks allocated accordingly. Consequently, the actual interview component itself was reduced from twenty-five to eighteen marks.

21. Although the splitting up of the interview marks as eighteen marks for Dress Manners, Behaviour and Communication, and General Awareness and Knowledge and seven marks for certificates was done in the earlier selection in 2006 also and was noticed by the DB order in ***Mahesh Kumar***, no arguments were advanced in that case that this splitting up of the interview marks (as 18 + 7) was not justified and in any event, was not indicated in the advertisement. A further point urged by Mr. Saini is that as regards the post of SAG-II for Lok Sabha, the requirement of having to possess a Computer Operations Certificate was not even a desirable qualification under the Lok Sabha Rules. It could not have been introduced at the stage of the interview particularly when there was no mention of it in the advertisement.

22. Clearly the above ground urged by Mr. Saini to question the fairness of the selection process was not raised in ***Mahesh Kumar v. Union of India***. It has been explained by the Supreme Court in ***State of U.P. v. Synthetics and Chemicals Ltd. (1991) 4 SCC 139*** that the doctrine of *sub silentio* operates as an exception to the rule of precedent. A decision is only an authority for what it actually decides. In ***Union of India v. Dhanwanti Devi***, the above principle was explained:

“9. Before advertg to and considering whither solatium and interest would be payable under the Act, at the outset, we will dispose of the objection raised by Shri Vaidyanathan that Hari Kishan Khosla's case is not a binding precedent nor does it operate as ratio decidendi to be followed as a precedent and per se per incuriam. It is not everything said by a Judge who giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well settled theory of

precedents, every decision contain three basic postulates - [i] findings of material facts, is the inference which the Judge draws from the direct, or perceptible facts; [ii] statements of the principles of law applicable to the legal problems disclosed by the facts; and [iii] judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in decision is its ratio and not every observation found therein not what logically follows from the various observations made in the judgment.....

10. Therefore, in order to understand and appreciate the binding force of a decision is always necessary to see what were the facts in the case in which the decision was given and what was the point which had to be decided. No judgment can be read as if it is a statute.”

23. To be sure, the Petitioners are not questioning the allocation of marks for the interview *per se* or even the prescription of the minimum qualifying marks in the interview (which is 45% for OBCs and 40% for SCs/STs). What they are saying however is that since the actual interview was only for eighteen marks and not twenty-five, their marks in the interview should be extrapolated as a percentage of eighteen marks and not twenty-five and if that results in their getting the minimum qualifying percentage of the twenty-five marks in the interview (50% for General category, 45% OBC and 40% SC/ST) of eighteen marks, then they should be held to have qualified. This is what clinches the issue in favour of the Petitioners in the present case. The fact is that the actual manner of evaluating their personality traits, which is the very purpose of an interview, i.e., the dress manners and appearance, behavior and communication and the general awareness and knowledge of duties involved in security services, was only with reference to eighteen out of the total twenty-five marks allocated for the interview. To recapitulate, the rationale behind allocating marks for the interview and making it critical for a candidate to qualify, as was explained in the Single Judge order in ***Mahesh Kumar***, was to enable the selection of only those candidates who possess “personal traits, computer, conduct, communication skills, alertness etc.” Keeping the above object in mind, the interview in the present case resulted in the assessment of the candidates only for eighteen of the twenty-five marks. Therefore, seven of the twenty-five marks which were for certificates for “desirable” qualifications had nothing to do with the personal interview. The checking of a certificate of a candidate was a clerical exercise and in fact was not done by the interview board. Therefore, for all practical purposes, the actual marks for interview got reduced from twenty-five to eighteen.

24. The breakup of interview marks, i.e., eighteen for actual interview and seven for certificates was never indicated in the advertisement. Consequently, reduction of the actual interview marks to eighteen was *de hors* the advertisement. In the present case although the advertisement mentioned that the interview marks were 25 and the minimum qualifying were 50% for General category, 45% OBC and 40% SC/ST, the candidates were not informed prior to the interview that the effective interview marks were reduced to eighteen and that seven marks out of twenty-five were for certificates in sports, NCC and computer operations. In light of the decisions in ***Hemani Malhotra***, ***Ramesh Kumar*** and ***Barot Vijaykumar Balakrishna*** this was legally impermissible.

25. As rightly pointed out by Mr. Saini, this was meant to be an exercise for the qualification of candidates and not their elimination. The allocation of seven marks for certificates resulted in 'elimination' of those candidates who despite having scored the minimum qualifying marks in the actual interview were unable to make the cut. Even if marks were to be given for the certificates, they ought to have been in 'addition' to the qualifying marks in the interview and not meant to eliminate those who had otherwise qualified in the interview. This was not envisaged by the Lok Sabha Rules, the Rajya Sabha Order or the advertisement.

26. The action of the Respondents in applying the criteria of minimum qualifying percentage to twenty-five marks and not to 18 marks which related to the actual interview and that too without disclosing this change either in the advertisement or to the candidates before the interview is arbitrary and violative of Article 14 of the Constitution. It has resulted in the unfair elimination of those Petitioners who have scored the minimum qualifying percentage (50% for General category, 45% OBC and 40% SC/ST) in both the written test as well as in the actual interview.

27. As far as the consequential relief is concerned, the candidates already selected need not be disturbed. Applying the criteria specified by the Respondents, it is declared that those candidates who have secured the minimum percentage of eighteen marks allocated for the actual interview, i.e., 50% for General category, 45% OBC and 40% SC/ST, should be held to have qualified in the interview. If a candidate, after securing the minimum qualifying percentage in interview also has the computer operations certificate (for a post in Respondent No. 2) or an NCC/Sports Certificate (for a post in Respondent

No.1 and 2) the corresponding marks for those would also be counted. The ultimate selection to the post of SAG-II will depend on the scores in the order of merit prepared in the above manner and the availability of vacancies.

28. Accordingly, it is directed that the Respondents will, vis-à-vis each of the Petitioners, ascertain if each of them has scored the minimum qualifying percentage marks in the interview as prescribed for their respective categories (i.e, 50% for General category, 45% OBC and 40% SC/ST), vis-à-vis the three sub-categories, against which they have been assessed for eighteen marks. Since no other candidate has come forward, this exercise be confined to the Petitioners before the Court. There are in any event unfilled vacancies in the post of SAG-II both in Respondent No. 1 and Respondent No. 2. On applying the criteria, if any of the Petitioners are found to have qualified then they will be offered appointment to the post either in Respondent No. 1 or Respondent No. 2, as the case may be. This exercise be completed within a period of eight weeks from today.

29. The writ petition is allowed in the above terms, but in the circumstances, with no order as to costs. Application also stands disposed of.

S. Muralidhar, J.

September 1, 2011
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