

Court No. - 20

Case :- WRIT - A No. - 8747 of 2023

Petitioner :- Mohan Singh Bisht

Respondent :- State Of U.P. Thru. Prin. Secy. Forest. Civil Sectt. Lko And 2 Others

Counsel for Petitioner :- Shailendra Singh Rajawat

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard learned counsel appearing for petitioner and learned State Counsel appearing for opposite parties.
2. Petition under Article 226 of the Constitution of India has been filed challenging order dated 22.08.2023, 28.07.2023 and 07.08.2023 issued by opposite parties whereby petitioner has been reverted on a Class IV post on the ground that he is ineligible to work on a Class III post since he does not fulfill the minimum criteria for minimum typing speed required for a Class III post.
3. It has been submitted that after initial appointment, petitioner was promoted on 29.01.2018 after due selection including a typing test and has been continuously working on the aforesaid Class III post of Junior Assistant but a complaint was thereafter made on 27.07.2021 on the basis of which a typing test was held in which petitioner was found to be ineligible. It is submitted that Rule 10 of U.P. Government Department Ministerial Cadre Service Rules, 2014, which is applicable upon petitioner, prescribes a minimum typing speed of 25 words per minute with regard to Hindi Type Writing and petitioner failed to qualify. It is submitted that in his explanation, it has clearly been indicated that at the relevant time, petitioner was also discharging duties of storekeeper due to which he was out of practice with regard to typing. It is submitted that the petitioner's case has been treated quite harshly by the opposite parties ignoring the ground reality pertaining to duties being performed by petitioner.
4. Learned counsel has also adverted to the U.P. Government Servant Probation Rules, 2013 to submit that a probation period of two years is required from the date of initial posting whereas petitioner has completed five years in promoted post and therefore impugned order pertaining to reversion amounts to a major penalty and could not have been adverted to without disciplinary inquiry. However it has also been submitted that petitioner if given sometime would adhere to the minimum

words required for the typing speed pertaining to Class III posts. Benefit of order passed in Writ A No.5437 of 2023; Vibhu Saraswat versus State of U.P & Anr. has also been sought.

5. Learned State counsel appearing on behalf of opposite parties however submits that ample opportunity has already been provided to petitioner regarding his typing speed in accordance with the relevant Service Rules applicable and the impugned order has been passed since petitioner was found wanting.

6. Learned counsel appearing for the petitioner also submits that in similar set of facts, this Court vide order dated 14.6.2023 passed in Writ A No.4595 of 2023 (Smt. Abha Devi vs. State of U.P. and Others) while exercising equity jurisdiction, has directed the respondents to take a fresh typing test of the candidate, therefore, same opportunity may also be given to the present petitioner.

7. Learned Chief Standing Counsel appearing for the State has opposed this prayer. However, he has left it to the discretion of the Court to pass appropriate order(s).

8. Considering the aforesaid facts, indicating that the case of the present petitioner is similar to the case of Smt. Abha Devi, this Court directs the respondents to take a fresh typing test after a period of three months from today, and if the petitioner qualifies the typing test and it is found that the petitioner has typing proficiency of 25 words per minutes in Hindi, he should be allowed to continue on the Class III post. If the petitioner fails despite the last opportunity, which is granted by this Court in exercise of equity jurisdiction, the petitioner shall continue on Class IV post.

9. In view of the fact that petitioner has been reverted from Class III post to Class IV post which actually amounts to major penalty in terms of the U.P. Government Servant (Discipline and Appeal) Rules, 1999 which has admittedly been passed without any departmental inquiry, it is directed that till the aforesaid typing test is held, the impugned order dated 22.08.2023 shall be kept in abeyance.

10. With the aforesaid direction/observation, the writ petition stands disposed of.

Order Date :- 8.11.2023

kvg/-