

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12664 of 2014

DATE OF DECISION: AUGUST 18, 2015

PGIMER AND ANOTHER

...PETITIONERS

VERSUS

THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. RAJESH GARG, SR.ADVOCATE
WITH MS. NAMRATA SHERGILL, ADVOCATE
FOR THE PETITIONERS.

MR. V.K.SHARMA, ADVOCATE
FOR RESPONDENT NO.2.

M. JEYAPPAUL, J.

1. Respondents No.1 and 2 in the Original Application before the learned Central Administrative Tribunal, Chandigarh Bench (for short 'Tribunal') have challenged the order dated 2.4.2014 passed by the learned Tribunal directing respondent No.1 to consider the appointment of applicant as Clerk on notional basis w.e.f. the date when the last person appointed, as a result of the subject selection, joined as Clerk and accord consequential benefits by way of seniority and promotion.

2. Respondent No.2 herein who was the applicant before the learned Tribunal contended in his petition that he was serving as a Ward Servant on daily wage basis from 6.2.1991. His services were regularized

w.e.f. 21.4.1994. The petitioners herein issued Notification on 6.9.1995 calling for applications to fill up 26 posts of Clerks through Employment Exchange, Chandigarh and from amongst the regular employees of PGI working in the lower posts. Respondent No.2 herein appeared in the typewriting test held on 9.12.1995 and his name was shown at Sr.No.2 in the merit list prepared by the petitioners herein on the basis of his scoring 40.2 Words Per Minute in the typewriting test. He was asked to appear before the Selection Committee for interview on 7.2.1996. The applicant was surprised to learn that the persons who were lower in merit were given appointment.

3. In the writ petition, the petitioners herein submitted that respondent No.2 herein was not found suitable by the Selection Committee as he was awarded 'Minus C' grade with the remarks “no office experience, no computer experience, G.K. Minus B”.

4. Learned counsel appearing for the writ petitioners would submit that the petitioners rejected the candidature of respondent No.2 as he was not found suitable by the Selection Committee. It is his further submission that subjective satisfaction based on the objective analysis made by the Selection Committee cannot be challenged before the Court.

5. *Per contra*, learned counsel appearing for respondent No.2 vehemently contended referring to the comparative qualification, typing speed, grading and experience of the candidates who appeared alongwith respondent No.2 before the Selection Committee that the selection has been made purely based on extraneous considerations and not on merit in the

performance of the respective candidates.

6. There is no dispute to the fact that respondent No.2 was positioned at 2nd place based on the typing speed he exhibited. Even a candidate by name Balwant Singh who had passed only Matriculation with typing speed far below the typing speed of respondent No.2 had been selected. One Piar Chand Soni who could not be given any grading at all and was far below in the typing speed compared to respondent No.2 had also been selected.

7. One of the reasons assigned for rejecting the candidature of respondent No.2 by Selection Committee was that he had no computer experience. On a perusal of the records, we found that M/s Parveen Kumar and Ravinder Singh who also did not have any computer experience and were far below in typing speed compared to respondent No.2 were also selected.

8. In our considered view, the Selection Committee had virtually pushed the merit in performance to the background while finalizing successful candidates. It has rightly been observed by learned Tribunal that there had been no fair play in the matter of selection done by the petitioners herein.

9. Learned counsel appearing for respondent No.2 submitted that respondent No.2 would not press for monetary benefits out of his appointment as Clerk and the subsequent promotions made, keeping in view his seniority.

10. Therefore, the order passed by learned Central Administrative

Tribunal, Chandigarh Bench, is confirmed. However, it is made clear that respondent No.2 herein is not entitled to any monetary benefit out of his appointment as Clerk and the subsequent promotions given to him, considering his seniority. Two months' further time is granted to the petitioners herein to comply with the directions of the learned Tribunal.

11. The writ petition is dismissed with the above directions.

(M. JEYAPPAUL)
JUDGE

August 18, 2015
Gulati

(DARSHAN SINGH)
JUDGE