

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA No.656 of 2015(O&M)
Date of decision: **May 26, 2015**

Shri Momen Ram

----Appellant

Versus

State of Haryana and others

----Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present:- Mr.Kanwardeep Singh, Advocate
for the appellant.

Mr.Sandeep Moudgil, Addl. AG, Haryana.

Mr.D.S.Nalwa, Advocate for HUDA.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 19.03.2015, whereby, CWP No.5491 of 2013 filed by the petitioner challenging the office order dated 21.1.2013 (Annexure P-1) issued by respondent No.2, whereby, he has been compulsorily retired at the age of 55 years on the ground of non-passing of the typing-test, has been dismissed.

It is not dispute that the appellant was promoted as Clerk from the post of Chowkidar on 8.4.1993. In the promotion order one of the conditions incorporated was that he has to pass the type test in Hindi or English at the speed of 25-30 words per minute within one

year from the date of joining a clerk failing which he shall not be allowed annual increments. He remained unable to pass the test despite various opportunities granted.

Ld. Single Judge while dismissing the writ petition relied on a decision in LPA No.972 of 2011 titled as **Kulwant Singh Vs. State of Haryana and another**, decided on 28.04.2011, wherein it was observed as under:

“Having heard learned counsel we are of the considered view that once the appellant has continuously remained unsuccessful in passing of the type test then his professional utility as a Clerk is considerably reduced and no fault can be found if he has been compulsorily retired. After all the basic object of Rule 3.26(d) of the Punjab Civil Services Volume-I Part-I, which are applicable to the appellant, is only one i.e. to weed out the inefficient and corrupt who have lost their utility. Accordingly, we are of the view that the learned Single Judge has correctly applied the principle emanating from the judgment of Hon'ble the Supreme Court rendered in the cases of Baikuntha Nath Das Baikuntha Nath Das v. Chief District Medical Officer, Baripada, AIR 1992 SC 1020. The appeal does not merit admission and the same is accordingly dismissed.”

The issue regarding validity of the order compulsorily retiring the employee on his failure to pass the typing test has also been considered by this Court in LPA No.557 of 2015 by observing as under:-

“It is settled by Hon'ble the Supreme Court that the order of compulsory retirement is neither punitive nor stigmatic.

Government has an absolute right to prematurely retire an employee where his continuance is not in public interest and the Court will not interfere with such a decision unless it is shown to be arbitrary or perverse.

Considering the fact that the appellant who was working as a clerk failed to pass the typewriting test as stipulated in the order of his regularization, even 19 years after passing of such order, no fault can be found with the decision of the authorities to compulsorily retire him for his failure to discharge the duties of clerk in an efficient manner.”

Accordingly, there is no merit in this appeal and the same is dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

May 26, 2015

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