

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

LPA No.797 of 2015(O&M)
Date of decision: **May 25, 2015**

Hanif Khan

----Appellant

Versus

Haryana Urban Development Authority and others ----Respondents

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

Present:- Mr.Jitender Nara, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 24.04.2015, whereby, the petition (CWP No.20470 of 2013) filed by the petitioner challenging the Notification No.EA-5-08/16312 dated 28.4.2008 (Annexure P-5) issued by respondent No.1, whereby, passing of type-test has been made compulsory for all employees, and also the order dated 24.6.2013 (Annexure P-3), whereby, the petitioner has been compulsorily retired at the age of 55 years on the ground of non-passing of the typing-test, has been dismissed.

The appellant was appointed as a Clerk in HUDA on ad-hoc basis on 29.08.1992, and his services were regularized w.e.f. 01.02.1996. It was one of conditions of the regularization that the regularized clerks would be required to pass a departmental type test

either in English or Hindi with a speed of 30/25 WPM respectively within one year from the date of joining service failing which, they would not be allowed annual increment. It was specified that the annual increment would accrue only from the date of passing the said test.

Despite his having served in HUDA for over 17 years, the appellant failed to clear the typewriting test. When his case for extension in service beyond the age of 55 years was considered and reviewed in the light of the Government instructions, it was found that he was lacking in professional integrity for having failed to pass the type test as per the conditions of his appointment order. It was noted that by not learning the typing skills, he had not been able to discharge the duty of a Clerk in an efficient manner. His retention in service beyond 55 years was considered to be against the public interest and vide order dated 24.10.2013, he was ordered to be retired on completion of three months from the date of issuance of notice. It is this order, which, the appellant had impugned by filing the writ petition, which was dismissed.

Learned Single Judge while dismissing the writ petition relied on a decision in CWP No.28424 of 2013. That writ petition along with other connected cases i.e. CWP Nos.6245 and 26003 of 2014 had been dismissed vide order dated 17.03.2015. LPA filed there-against was dismissed on 10.04.2015 by observing as under:

“... .. It is not possible to agree with the contention of learned counsel for the appellant. The judgment relied on by the learned Single Judge, as

extracted above, fully applies to the case of the petitioner. It has been held therein that once the employee has continuously remained unsuccessful in passing the typing test, his professional utility as a Clerk is reduced and no fault can be found if he is compulsorily retired. 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.”

In view of above, we find no ground to interfere in the impugned judgment. The appeal is dismissed.

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

May 25, 2015

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