

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6688 of 1995

Date of Decision: 10.03.2016

Ish Kumar and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Nemo for the petitioners.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. No one appears for the petitioners despite the case shown in the urgent list in the taken up matters before fresh filing. It will serve no useful purpose to defeat the petition for non-prosecution and then revive it on just cause shown and, therefore, I heard Mr. Manuja on the merits of the case for final disposal. Perused the paper-book with his assistance.

2. According to the written statement filed by State, the petitioners were initially appointed by the District Treasury Officer, Ludhiana at local level as Clerks on ad hoc basis for a period of six months or till replaced by candidates recommended by the Subordinate Services Selection Board, Punjab whichever date is earlier. Appointment letters were issued on April 17, 1984 (Annex P-2). Though extension in service was permitted to await regular recruits but their services were liable to be terminated at any time without any notice. In the meantime, came the policy

of the Government on September 01, 1986 whereby it was decided to regularize the services of Class-III employees working on ad hoc basis who had completed one year service as on April 01, 1985. The petitioners qualified the terms and were granted the benefit of the policy but by way of screening/selection through interview by Departmental Selection Committee conducted on December 01, 1987. On the basis of the recommendations of the Committee the services of the petitioners were regularized with the condition that they will have to pass a Punjabi type test within the stipulated period. This condition was imposed in accordance with the prevailing instructions of the Punjab Government dated August 24, 1983 as essential qualification for Clerks. Despite eleven chances including special chances afforded to both the petitioners they were unable to pass the Punjabi type test. On failure, the services of the petitioners were terminated after following due process of reasonable opportunity of hearing granted to them on a show cause notice issued. It is against the termination order that the present writ petition was filed praying for setting aside of the termination orders in a joint petition presented on a common cause.

3. The respondents submit that the termination has taken place in accordance with the terms and conditions of the appointment letter. If the condition precedent to the offer of regularization is not satisfied in the case of a Clerk then it is not possible for the Court to interfere with Government policy and obliterate the condition of the Punjabi type test, to bring relief to the petitioners. The Government gave sufficient latitude in giving eleven chances to the two ex-Clerks in a day and age when manual typewriters were the order of the day in offices of Government departments, as was the

position in the 1980s.

4. I find no ground to interfere with the impugned termination orders and would dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

10.03.2016
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