

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

**Civil Writ Petition No.13535 of 2016
Date of Decision: 13.07.2016**

Pankaj Kumar Khurana and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Amit Sharma, Advocate for the petitioners.

JASWANT SINGH, J.

1. The 04 petitioners-Pankaj Kumar Khurana, Amanpreet Walia, Mandeep Singh and Dinesh Jindal are aspirants for recruitment to the 556 posts of Clerks and 58 posts of Clerks-cum-Data Entry Operators for appointment in various departments of Govt. of Punjab, advertised in the Newspapers on 28.11.2015, vide Advt. No.4 of 2015 (**Annexure P-2**). The number of advertised posts by issue of subsequent Corrigendum at **Annexures P-5, P-6 and P-7** got increased to 2664 and the last date for applying got extended till 18.04.2016.
2. The required statutory minimum educational and other qualifications, as also advertised, are:-

The candidate:

*(i) should have a degree of graduation from any
recognized University/Institution according to the
guidelines/instructions of U.G.C.;*

*(ii) should have passed Punjabi at Matriculation
level;*

(iii) Possesses at least one hundred and twenty hours course with hands on experience in the use of Personal computer on Information Technology in office productivity applications of Desktop Publishing applications from Government recognized institution or a reputed institution which is ISO 9001 certified.

or

Possesses a Computer Information Technology Course Equivalent to 'O' level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India.

Apart from the above, a candidate has to qualify a Punjabi and English typing test of the laid down standards as per the amended provisions of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, duly notified in the Advertisement (P-2) coupled with the Corrigendum (P-4).

3. As per Clause 9 of the Advertisement (P-2), it was notified that for preparing the merit list of the candidates having passed the qualifying typing test, a written test could also be taken by the Subordinate Services Selection Board, Punjab (for short “the Board”). However, the selection criteria provided in Clause 18 indicated that the merit of the candidates passing the prescribed typing test shall be prepared on the basis of the percentage of the marks obtained in graduation. But if the Board chooses to hold the written examination, then the merit shall be prepared on the basis of the marks obtained in the written examination. The candidates were not to be further tested by conduct of an interview. The relevant Clause 9 and 18 are extracted as under:-

“9. Written test can also be taken by the Board for preparing the merit list of the candidates passed in typing test.

18. Selection Criteria:-

Merit of the candidates passing the prescribed Punjabi typing test shall be prepared on the basis of the percentage of the marks obtained in graduation. But if the written examination is held by the Board, then merit shall be prepared on the basis of the marks obtained in written examination. Candidates shall be called for the counseling according to the decision to be taken by the Board.”

4. The petitioners have qualified the prescribed English and Punjabi typing tests of the required standards, conducted online from 23.05.2016 to 20.06.2016, as per the result displayed by the Board on the website on 20.06.2016 (**Annexure P-10**). It is apparent that a total number of 6875 candidates have qualified the prescribed typing tests and have gone to the next stage of determination of their merit for appointment against 2664 posts. In the Notice (**P-10**), it has been notified that the candidates would be informed of the schedule of counseling for scrutiny of their documents, meaning thereby that the *inter se* merit of the candidates is being assessed on the basis of the percentage of their marks in their educational qualifications.

5. The precise grievance of the petitioners is regarding the decision of the Board to proceed with the selection process by preparing a merit list based on marks obtained by the candidates in graduation, instead of conducting a written examination.

Learned Counsel for the petitioners has argued that the *inter se* merit of such a large number of candidates i.e. almost thrice the number of posts advertised is being determined without conducting a written test so as to test their comparative abilities and thus the decision is illogical. It is next

argued that no weightage is being given in determination of the merit to the candidates of their proficiency in the Punjabi and English typing tests. Thus, the action of the Board in adopting the method of determination of merit based on the marks in the graduation is bad and accordingly it is prayed that a direction be issued for conduct of a written test for determination of *inter se* merit.

6. After hearing learned Counsel for the petitioners at length, no case for interference is made out.

The selection is for a Class-III post of Clerk and concededly as a matter of policy, no resort is being made to interview as one of the components of selection. In the aforesaid reproduced Clause 18 of the advertisement, the selection criteria has been prescribed. It has been duly notified that the merit of the candidates passing the prescribed typing tests shall be prepared on the basis of the percentage of the marks obtained in graduation. In the aforesaid reproduced Clause 9 of the advertisement, the candidates have only been made aware that the Board can take a decision to conduct a written test, however, if the said decision is so taken, Clause 18 provides that in that eventuality, the merit list shall be prepared on the basis of the marks obtained by the candidates in the written examination. It is thus apparent that it is for the Board to choose as to whether or not merit has to be determined based on a written examination. The Board having chosen to determine the merit otherwise than by conduct of the written examination cannot be said to have violated either any statutory rule or the notified terms & conditions of the advertisement. Merely because the petitioners, who perhaps have lower marks in their graduation, feel that the determination of merit based on the written examination, would be a better decision, does not

render the decision of the Board to be arbitrary so as to warrant interference by this Court in its limited jurisdiction. It is settled proposition of law in service jurisprudence that a decision may not be the best decision but can only be interfered if it is arbitrary or illegal. Thus, the decision of the Board to determine the merit based on the percentage of marks of graduation of the candidates cannot be faulted with.

As regards the other argument, as per the terms of the advertisement, a candidate is required to qualify a English and Punjabi typing test of the laid down standards keeping in view the requirements of sub Rule 2 of Rule 15 of 1994 Rules. Thus, the statutory rules do not envisage the proficiency in typing tests to be part of selection criteria, therefore, there is no illegality in not including the proficiency in the typing tests as part of determining merit for selection except of qualifying nature.

In view of the above, the present writ petition stands dismissed.

July 13, 2016

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>