

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

CWP No.47 of 2013

Date of Decision:- 23.05.2016

Dutta Ram and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.K. Malik, Senior Advocate
with Ms. Rimple Kadyan, Advocate
for the petitioners.**

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioners are seeking quashing of the orders dated 07/14.12.2012 (Annexures P-2 and P-3) by which they have been ordered to be reverted back to the post of Clerk on account of non-passing of the typed test.

Petitioners were appointed as Class-IV employees in the respondent(s)-department on 27.07.1988 and 03.05.1990 respectively. Thereafter, they were promoted as Clerks, vide orders dated 17/19.06.2008 (Annexure P-1). Vide orders dated 07/14.12.2012 (Annexures P-2 and P-3) they have since been reverted after working four years on the ground that they have not passed the type test.

Upon notice, written statement has been filed on behalf of respondent Nos.1 and 2, in which, a reference has been made to the instructions dated 22.10.1997 (Annexure R-6), by which the condition to pass the type test was mandatory, within a period of three months, failing which, they are to be reverted from the post of Clerks.

This instructions dated 22.10.1997 (Annexure R-6) came up for consideration before a Co-ordinate Bench of this Court in case bearing **CWP No.21630 of 2010** titled **Jai Kanwar V. State of Haryana and others**, decided on 15.01.2014 whereby it has been held that merely on account of issue of executive instructions the condition cannot be imposed on a clerk to pass a typed test wherein as per The Haryana Town & Country Planning Department, Ministerial (Group C) Service Rules, 1983 for promotion to the post of Clerk there was no condition that he should pass a type test. In that case, the order of reversion was set aside and the directions were issued to the respondents to consider the claim of the petitioner for promotion to the post of Assistant from the date his juniors have been promoted with all the consequential benefits. The judgment in **Jai Singh's case (supra)** has attained finality.

Applying the ratio of above-said judgment to the facts of the present case, the present writ petition is allowed. Orders dated 07/14.12.2012 (Annexures P-2 and P-3) are set aside and directions to the respondents to consider the case of the petitioner for promotion with all consequential benefits, within a period of two months from the date of receipt of certified copy of this order.

May 23, 2016

(**RITU BAHRI**)
JUDGE