

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

C.W.P No. 6490 of 2014

Date of decision : 12.05.2016

Suresh Kumar

...Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Verma, Advocate
for the petitioner.

Mr. Ravi Pratap Singh, A.A.G. Haryana

Mr. Manfaied Khan, Advocate for
Mr. Pratap Singh, Advocate
for respondent No. 2 and 3

RITU BAHRI , J. (Oral)

By way of present writ petition, petitioner is seeking issuance of writ in the nature of mandamus directing the respondents to give the benefit of annual increment to him, on completion of one year of service after his appointment as Clerk and consequential benefits.

Petitioner was appointed as clerk in the respondent-Board on 18.08.2005 and at the time of appointment of the petitioner, he was governed by Statutory rules known as "Haryana State Agricultural Marketing Board Rules, 1974 (for short 'Rules 1974') and as per these

rules, there was no condition of passing the type test of English and Hindi at the speed of 30 w.p.m and 25 w.p.m respectively. Despite the above said Rules, the respondents are not granting the annual increment to the petitioner.

The controversy that the employees of the Board are required to pass the type test for the benefit of annual increment came up for consideration before this Court in a case titled as ***Prem Chand vs. Satyabir Singh, passed in CWP No. 2159 of 2010, decided on 20.07.2010*** whereby this Court while dealing with a case of class IV employee, examined the above said Rules 1974 and allowed the writ petition on 20.07.2010 and held that the respondents cannot insist on the petitioner's typing test. Moreover, the condition in the appointment order regarding his type test is also redundant and has no effect in view of specific rules which do not provide for the type test.

Thereafter respondent No. 1 in compliance of the above said judgment dated 20.07.2010, passed an order dated 03.05.2013 to the effect that all the Clerks of Board cadre promoted or appointed before 04.01.2008 are exempted from condition of passing type test.

Despite the judgment dated 20.07.2010 and order dated 03.05.2013, the benefit of exemption from passing type test was not extended to the petitioner on the ground that he is a direct recruitee.

But the respondents in their written statement has not denied the fact

that they have complied with the judgment dated 20.07.2010 and passed order dated 03.05.2013.

As per Rules, 1974, the academic qualification for appointment to the post of Clerk reads as under:-

“(i) Has passed matriculation examination or equivalent examination from the recognized university/education board.

(ii) Knows type writing.”

Thus, in the rules, there is no condition that petitioner has to pass type test but in his appointment letter, condition No. 6 was imposed that the petitioner was required to pass the type test of English and Hindi at the speed of 30 w.p.m and 25 w.p.m respectively. Thus, this condition is contrary to the Rules, 1974, as Rules does not specify passing of type test and thus, the employee cannot be insisted to pass type test in order to get annual increments.

Applying the ratio of the above said judgment and keeping in view that the Rules does not specify passing of type test, the writ petition is allowed and direction is given to the respondent-department to give the benefit of annual increment to the petitioner, on completion of one year of service after his appointment as Clerk and consequential benefits.

12.05.2016

G Arora

(RITU BAHRI)
JUDGE