

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

**CWP No.20408 of 2014 (O&M)
Date of Decision : 16th January, 2017**

Preetinder Kaur

..... Petitioner

Versus

Union Territory, Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ranjivan Singh, Advocate
for the petitioner.

Ms. Deepali Puri, Advocate
for respondent Nos.2 to 4.

Mr. V.K.Sachdeva, Advocate
for respondent No.5.

AJAY TEWARI, J. (Oral)

The petitioner has preferred the instant petition for quashing of office order dated 11.09.2014 and memo dated 24.09.2014 whereby requiring the steno-typists of the respondent-corporation including petitioner for appearing in the Stenography Test (English) to be held on 15.10.2014 without considering the claim of the petitioner for promotion as Senior Scale Stenographer w.e.f. August 2012.

The petitioner was appointed as Steno Typist (English) in the year 2002. She was seeking promotion to the post of Senior Scale Stenographer. As per rules, it was a post to be filled by promotion from amongst steno typist having five years regular service in the cadre after

appointment thereto provided they qualify the departmental test at the speed of 120 W.P.M. in stenography (English) and 30 W.P.M. in transcribing the same. In the year 2012, the respondent-Corporation initiated the process to fill up four posts of Senior Scale Stenographer, three for general category and one for the reserved category. The petitioner was at Sr. No.3 in the Seniority list. Admittedly, she committed 5% mistakes in the test. At that time, the issue before the Selection Committee was whether a person who had committed 5% mistakes would be considered to have qualified or not since there was another instructions of the Punjab Government which limited the consideration to 4% mistakes. The Committee decided to fill up two posts and decided to seek clarification from the Union Territory, Chandigarh Administration as to whether the qualification of 4% mistakes would be imposed or not. Admittedly, the clarification was given by the Union Territory, Chandigarh Administration vide document (Annexure P-7) in which it was clarified that the circular of the Punjab Government on which the Committee had placed reliance was not applicable and the qualification would be 5% mistakes.

Learned counsel for the petitioner has pointed out the proceedings of the Selection Committee wherein the said Committee has held as follows:-

“However, if after clarification someone is found eligible for promotion, he/she should be promoted from the same date as that of and as far above two persons.”

The claim of the petitioner is that in view of the stipulation and the subsequent clarification, the petitioner had to be considered as qualified and her case should be considered for promotion w.e.f. August, 2012.

Learned counsel for the respondents have not disputed the factual assertions but state that in a subsequent test, the petitioner committed much more even 5% mistakes and consequently she cannot claim the promotion from the year 2012.

Learned counsel for the petitioner points out that on 30.09.2014 when this petition had come up for hearing, this Court had passed the following order:-

“Notice of motion for 02.03.2015.

If the petitioner participates in the process of examination, that will be without prejudice to her rights as raised in the instant petition.”

As per learned counsel for the petitioner, in view of this order, whatever marks the petitioner may have obtained in the subsequent test cannot be relevant for her claim for promotion in August, 2012.

In my opinion, the argument of the learned counsel for the petitioner have to prevail. The Selection Committee at the time of selection recognized that there was an anomaly and referred the matter for clarification with the explicit stipulation that in case the clarification came in favour of the petitioner she would be entitled for promotion from the same date and it does not now lie in the mouth of the respondents to completely erode the effect thereof in view of the clarification mentioned above.

In these circumstances, this petition is allowed and the respondents are directed to consider the claim of the petitioner for promotion as Senior Scale Stenographer with effect from the date of the order of promotion of Neeraj and Surinder Kaur after considering her to

have qualified in the type test.

Let necessary exercises be conducted within a period of one month from the date of receipt of certified copy of this order. In case the petitioner's claim is accepted, she would be entitled for all consequential benefits except the increased salary for the period which she has not worked as Senior Scale Stenographer.

As regards the claim of inter se seniority between the petitioner and respondent No.5 as steno-typist it is stated that the same is pending. Their inter se placement would have to be in accordance with that determination.

16th January, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No