

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

CWP No. 26021 of 2015 (O&M)
Date of decision : March 07, 2017

Arjun Singh

..... Petitioner

v.

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. SB Hooda, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG Haryana

Ajay Tewari, J (Oral)

On 9.2.2017, the following order was passed :-

“ The grievance raised in the present writ petition is that the petitioner has been reverted from the post of Labour Inspector to that of Assistant on the ground that he could not clear the statutory requirement of having passed the departmental examination in four attempts offered to him, out of which he took three. The claim of the petitioner is that as a result of an accident, he was partially paralyzed and even in the medical report of the Civil Surgeon, Panchkula, it was mentioned that though the petitioner can write it is only with great difficulty and very slowly.

In the written statement, it has been stated that the plea of the petitioner for exemption was rejected after considering the report of the Civil Surgeon.

Counsel for the petitioner states that even if the prayer for exemption cannot be met, yet the respondents can consider permitting him to take the exam with the help of a writer as is done in many circumstances where an examinee is not able to write for any reason.

Counsel for the respondents seeks a short adjournment to obtain instructions.

Adjourned to 7.3.2017. Copy of this order be given dasti to counsel for the respondents under the signatures of the Bench Secretary.”

Today, learned Sr. DAG Haryana has placed on record a copy of the letter dated 2.3.2017 from the Labour Commissioner, Haryana in which it has been mentioned that since there is no provision in the rules for providing a writer for taking departmental examination, it would not be possible to do so. The said letter is taken on record as Mark A.

In my opinion, the respondents are taking an extraordinarily blinkered view of the situation. All departmental examinations are prescribed to test the knowledge of the employees. Stand of the petitioner is that he has the knowledge but because of physical injury he cannot transmit it to paper. In these circumstances, if he requests for a writer, there would be no requirement for any specific provision in the rules. It is trite to say that rules or law for that matter cannot be framed in such a manner that every possibility is catered for. There have to be necessarily some gaps because of the infinite number of situations which may arise in human affairs and any such gap can be filled in any legal and constitutional manner. Once a provision for a writer can be made for students taking various Boards/ Universities examinations; if runners can be provided to injured batsmen; if a deaf employee can be permitted to use a hearing aid; if a person with less vision can be allowed to use glasses, I can see no earthly reason why a writer cannot be provided to an employee to take a departmental examination. In the circumstances, I reject the letter Mark A and direct the respondents to enable the petitioner to take the departmental exam with the help of a writer. Since the petitioner is stated to be retiring on 31.8.2017, let this necessary exercise be conducted within two months.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

March 07, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No