

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

(1) CWP No. 1248 of 2015 (O&M)

Date of Decision: 06.10.2018.

Saroj Bala and others ... Petitioners

Versus

State of Punjab and others

... Respondents

(2) CWP No. 18300 of 2015 (O&M)

Jasbir Kaur ... Petitioner

Versus

State of Punjab and others

... Respondents

(3) CWP No. 4870 of 2015 (O&M)

Sunita Rani and another ... Petitioners

Versus

State of Punjab and others

... Respondents

(4) CWP No. 17049 of 2015 (O&M)

Sukhjit Kaur & others ... Petitioners

Versus

State of Punjab and others

... Respondents

(5) CWP No. 2712 of 2015 (O&M)

Mohinderpal Kaur and another ... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. Prateek Pandit, Advocate,
for the petitioner(s)
(in all cases except CWP No. 18300 of 2015).

Mr. Tajinder Pal Singh Makkar, Advocate,
for the petitioner(s) in CWP-18300-2015.

Ms. Sunint Kaur, AAG Punjab.

Mr. A.K. Walia, Advocate,
for the applicant/proposed respondent No.4 in
CWP-2712-2015.

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned five civil writ petitions as common questions of facts and law are involved therein.

The facts are being taken from C.W.P. No. 1248 of 2015. The petitioners have sought quashing of condition imposed in letter dated 22.07.2014 (Annexure P-6) issued by Under Secretary, Revenue Department, State of Punjab, which requires the petitioners to undergo a test of shorthand and typing in English language for upgradation to the post of Junior Scale Stenographer from that of Steno Typist working in the office of Sub Divisional Magistrates, in the State of Punjab.

The petitioners were appointed to the post of Steno-Typist in the office of Deputy Commissioner, Kapurthala. Before their selection, the petitioners had undertaken a test of shorthand and typing in Punjabi language and on the basis of their merit in the test, their names were recommended by the Subordinate Service Selection Board/Departmental Selection Committee. As there were no promotional avenues for Steno-Typists, they moved representations to the Government. On their representations, the Government of Punjab vide letter dated 02.06.2014 (Annexure P-4) decided to upgrade the

posts of Steno-Typists to that of Junior Scale Stenographers. As per the said letter (Annexure P-4), the posts were to be upgraded with immediate effect and no condition for undergoing any typing/short hand test was laid down. In pursuance to letter dated 02.06.2014 (Annexure P-4), the posts of petitioner Nos.1 to 4 were upgraded to that of Junior Scale Stenographer on the basis of seniority-cum-merit vide letter dated 01.08.2014 (Annexure P-5). However, through the impugned letter dated 22.07.2014 (Annexure P-6), it has been provided that the posts were technical in nature, therefore, prior to promotion, it was necessary to conduct short hand/typing test in Punjabi as well as English language. Thereafter, vide letter dated 19.08.2014 (Annexure P-7), the upgradation of posts of petitioner Nos. 1 to 4 has been put on hold. It has been contended that the condition of English shorthand/typing test is bad in law inasmuch as it is a case of upgradation and not promotion.

It is pertinent to mention here that in CWP-18300-2015, reply on behalf of the respondents has not been filed till date despite availing various opportunities. However, since common questions of facts and law are involved in these petitions, therefore, the reply filed in the connected petitions is being read as reply in this petition as well.

The common stand of the respondents is that vide letter dated 22.07.2014 (Annexure P-6), the Government of Punjab has clarified that the post of Junior Scale Stenographer is a technical post

and for promotion to this post, it is necessary to conduct a test of shorthand/typing. In the offices of SDM and Deputy Commissioner, the work of a Stenographer is to take dictation regarding Court cases, D.O. Letters, proceedings with the government and other offices where English language is necessary. As per Rule 16 of the Punjab Civil Service (General & Common Conditions of Service) Rules, 1994 (for short “the 1994 rules”), a type test for the post of Junior Scale Stenographer is mandatory. In compliance with the letter (Annexure P-6), respondent No.3 has rightly issued order and had fixed date 28.11.2014 for the type test but the petitioners have failed to appear in the test.

I have heard the learned counsel for the parties and have gone through the case file.

The relevant portion of the letter dated 02.06.2014 (Annexure P-4) issued by Under Secretary, Government of Punjab Revenue Department, Chandigarh is reproduced as under:-

“The Governor of Punjab is pleased to give approval for upgrading the posts of Steno-Typist in the office of Sub Divisional Magistrates in the State presently having pay scale 10300-34800+3200 grade pay, to post of Junior Scale Stenographer in the pay scale of 10300-34800+ 3600/- grade pay”

A perusal of the letter (Annexure P-4) shows that the posts held by the petitioners have been upgraded to that of Junior Scale Stenographer. The same cannot be termed as promotion. Therefore, Rule 16 of 1994 Rules cannot be pressed into service in the given context. Had it been a case of promotion, the conditions could have

been imposed by the authorities but as reflected in the letter (Annexure P-4), the posts of Steno-Typists were upgraded to that of Junior Scale Stenographer. In such a case, the rule of seniority shall follow particularly when letter dated 02.06.2014 was unconditional and the benefit was to be extended to all the Steno-Typists.

In view of above, the present civil writ petitions are allowed. The imposition of condition in the impugned letter dated 22.07.2014 (Annexure P-6) regarding passing of typing/short hand test in English language is set aside being *dehors* the rules.

All the civil misc. applications also stand disposed of accordingly.

A photocopy of this order be placed in the file of other connected case(s).

06.10.2018.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No