

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

CWP No. 24041 of 2014.

Date of Decision: 13.11.2018.

Kushal Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Narinder Pal Sharma, Advocate,
for the petitioner.

Ms. Bhawna Gupta, DAG Punjab.

JITENDRA CHAUHAN.J.

The petitioner seeks quashing of memo dated 30.10.2014 (Annexure R-12/T) vide which the claim of the petitioner for promotion to the post of Clerk has been denied and further for issuance of a writ in the nature of mandamus directing the respondents to promote the petitioner to the post of Clerk.

The facts of the case are that the petitioner is a 90% handicapped as per medical certificate issued by Civil Surgeon, Jalandhar (Annexure P-1). He was appointed as Caller in the Punjab Civil Secretariat vide letter dated 25.09.1997. The respondent-department had invited applications for filling up the posts of Clerks from Class-IV employee. The qualification required was matriculation having 5 years' service experience and knowledge of Punjabi type-

writing at the speed of 30 words per minute. Vide instructions dated 02.11.1989 (Annexure P-6), the Government of Punjab granted exemption from proficiency in type writing for promotion to the post of Clerk to all the categories of physically handicapped employees who produce the required medical certificate from the Civil Surgeon. The petitioner fulfills all the requisite qualifications except the proficiency in Punjabi type writing. He applied for promotion to the post of Clerk against 1% quota meant for disabled persons suffering from lower vision. The petitioner was directed to appear before the Principal Medical Officer, Government Multi Speciality Hospital, Sector 16, Chandigarh for his medical examination. Vide Annexure P-8, the Principal Medical Officer, Chandigarh has sent his report wherein it was certified that the petitioner is unfit to do typing, therefore, the petitioner was eligible for exemption from passing typewriting and as such there was no reason to deny promotion to the petitioner.

On the other hand, the stand of the respondents is that as per the notification dated 17.08.2011 (Annexure R-1), a person is required to pass Punjabi type writing test prior to promotion to the post of Clerk. The duties attached with the post of Clerk in the Punjab Civil Secretariat are such that an incumbent has to do a lot of typewriting work and as per new infrastructure introduced in the office, one should be very well conversant with knowledge of computer basics. A person like the petitioner, who neither has knowledge of computer basics nor he could do typing work will not be

able to perform duties attached to the post of Clerk, in the Punjab Civil Secretariat. Even in the Personal work Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 there does not exist any provision for relaxation of qualifications and experience prescribed by the rules for a particular post. There exists some other posts in group 'C; services for which qualifying test in typewriting is not essential. As and when such posts become available in future, the claim of the petitioner shall be considered.

Heard.

The relevant instructions dated 02.11.1989 (Annexure P-6) issued by the Government of Punjab are reproduced as under:-

I am directed to refer to this Department circular letter No. 4/17//89-IPP/13274, dated 1st October, 1985, wherein it has been provided that only those physically handicapped persons recruited directly to the post of Clerks, and in whose case the Civil Surgeon of the District to which he/she belongs, certifies that he/she is physically incapable of type writing may be exempted from the proficiency in type writing.

2. In partial modification of these instructions, it has been decided that this exemption from proficiency in typewriting will be granted to all the physically incapable persons who will produce the required medical certificate as stated in para-1 above, without any consideration to the mode of their recruitment as Clerks.

3. These instructions may please be brought to the notice of all concerned for information and meticulous compliance.

4. The receipt of this communication may please be acknowledged.

The respondent-department has not denied the

applicability of the aforesaid instructions dated 02.11.1989 (Annexure

P-6). The instructions provide exemption to all physically incapable persons subject to production of medical certificate from the concerned Civil Surgeon. As per the certificate issued by the Principal Medical Officer, Govt. Multi Special Hospital, Sector, Chandigarh (Annexure P-8), the petitioner is unable to do typing, therefore, a clear cut case for exemption from typing is made out. Consequently, the present writ petition is allowed. The impugned memo dated 30.10.2014 (Annexure P-12) is set aside. The respondents are directed to promote the petitioner to the post of Clerk against the vacancy reserved for blind with effect from 13.12.2011. The necessary exercise be done within a period of two months from the date of receipt of certified copy of the judgment. The notional benefits be released to the petitioner within a period of four weeks thereafter.

13.11.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No