IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6709 of 2016 (O&M)
Date of decision 06.07.2018

Sudesh Kumari

...Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ram Niwas Sharma, Advocate, for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

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Ritu Bahri, J. (oral)

Petitioner is seeking direction to the respondents to grant her annual increments w.e.f. 01.08.2005 as the same were withheld because of non-passing of type test.

Heard, counsel for the parties.

The respondent-department is insisting that as per appointment letter dated 13.08.2004 (Annexure R-2), the petitioner, who was appointed as Lower Division Clerk (LDC), should have qualified type test and computer test within two years, in four chances. The petitioner had passed the type test in the year 2008 and was granted increment thereafter. In 2016, her increment has been stopped on the ground that as per appointment letter (Annexure R-2), she has not passed the type test.

The question for consideration in this petition is, 'whether as per instructions dated 30.08.2000 (Annexure R-1), in all the appointments under Ex-gratia Scheme, the candidates have to qualify type test in English and Hindi at the prescribed speed of 30/25 w.p.m. respectively.'

However, these instructions do not reflect passing of the computer test. Since this condition was not reflected in the instructions dated 30.08.2000 (Annexure R-1), the respondents have wrongly imposed this condition in the appointment letter of the petitioner.

In para no.6 of the written statement, the respondents have stated that the petitioner had passed the type test in 2008, but had failed to clear the computer test.

Keeping in view that in the instructions (Annexure R-1), there was no requirement to pass the computer test, increment of the petitioner could not have been stopped on account of non passing of the computer test.

Learned counsel for the respondents has argued that once the petitioner has accepted her appointment with the condition of passing of computer test, she cannot take a plea that she is not bound to clear the said test.

This argument is liable to be rejected as the petitioner has referred to the policy dated 21.06.1990 (Annexure P-3), where the dependents of the deceased employees, who were duly appointed under Ex-gratia Scheme were not required to pass the type test. However, vide instructions 30.08.2000 (Annexure R-1), the Government has imposed the condition that all appointments as LDC under Ex-gratia Scheme will be made on Ad-hoc basis with the condition that such applicants will have to qualify the type test in English/Hindi at the prescribed speed of 30/25 w.p.m. respectively within two years in four chances from the date of joining the post.

From the date of issuance of earlier instructions dated

21.06.1990 (Annexure P-3) till the date of new instructions dated 30.08.2000 (Annexure R-1), there was no condition of passing of computer test for a person appointed as LDC under Ex-gratia Scheme. The petitioner was appointed as LDC under Ex-gratia Scheme vide order dated 13.08.2004 (Annexures P-1 & R-2). While appointing the petitioner, condition of passing of computer test, was imposed. This condition has been wrongly imposed because the earlier instructions 30.08.2000 (Annexure R-1) have not been modified by the Government. Therefore, the same are against the provisions of law.

In view of the above, the present petition is allowed and the respondents are directed to restore/grant annual increment to the petitioner with effect from the due date with consequential relief, as she has already passed the typing test way back in the year 2008. Any recovery made, be refunded back to the petitioner along with interest at the rate of 6% per annum.

(RITU BAHRI)
JUDGE

06.07.2018
ajp

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