

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 27.05.2019****CWP No.16141 of 2018 (O&M)**

Sapna Nehra

...Petitioner

Vs.

Punjab & Haryana High Court, Chandigarh & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. S.P.Laler & Mr. Shubham Saroha, Advocates,
for the petitioner.

Ms. Nimrata Shergill, Advocate, for respondent No.1.

Ms. Kashika Kaur, Advocate, for
Mr. Gaurav Chopra, Advocate, for respondent No.2.**RAJIV NARAIN RAINA, J. (ORAL)****CM No.18134 of 2018**

1. Application is allowed. Documents are taken on record.

CWP No.16141 of 2018

1. Having heard Mr. S.P.Laler appearing for the petitioner; Ms. Nimrata Shergill representing the Punjab & Haryana High Court and Ms. Kashika Kaur for the Society for Centralized Recruitment of Staff in Subordinate Courts (SSSC), in my considered view it is not possible to round off the petitioner's typing speed to 30 w.p.m. from 29.6 w.p.m. to tide over the barrier of the minimum standard for qualifying type test. The petitioner may have scored high in merit of the shortlisted candidates, who had qualified the written examination to be called for the computer proficiency test and interview, but the fact remains that she has failed to qualify the type test on the prescribed speed of 30 w.p.m. It matters little if she ranked 39th in the written test in a list of 300 plus.

2. The only point on which notice was issued by me was on information supplied by the petitioner that more than 30 vacancies are available for filling. But a perusal of the website of the High Court downloaded in court computer reveals that 352 vacancies of Clerks as existing on 31.12.2018 have been advertised in different categories for the Subordinate Courts of Haryana by the SSSC vide Employment Notice No.25C/SSSC/HR/2019 dated 05.01.2019. The last date in the three-stage process was 07.02.2019. The petitioner was free to apply for these posts and compete in case she had applied.

3. The basic reason which persuades me even not to think about rounding off marks is that any lowering of merit in the qualifying test will give rise to accretion of rights in others of consideration for equal opportunity under Article 16(1) of the Constitution of India and, therefore, if rounding off is resorted to bring relief of appointment to the petitioner, it would open up a Pandora's Box with everyone in running, entitled to equal treatment which may have to be given to all, which course if adopted, would only seriously jeopardize public interest in the matter of public appointments to Government service by way of direct recruitment, which would be rather difficult to manage judicially as no power is conferred in the rules to round off marks to the nearest minimum whole number. This is not a matter only between the SSSC and the petitioner; the aggrieved are those who may be similarly placed. Rounding off marks to the cut-off point is legally impermissible in absence of statutory backing and power of relaxation is not open to be exercised. See, exhaustive discussion on the principle of rounding off marks held in the negative in Tanya Malik Vs. High Court of Delhi, (2018) 14 SCC 129; Orissa Public Service Commission Vs. Rupashree

Chowdhary, (2011) 8 SCC 108 in which rounding off 44.93% to 45% was turned down being de hors rules.

4. In Bhanu Pratap Vs. State of Haryana, (2011) 15 SCC 304 the Supreme Court observed:

“Somewhere a line has to be drawn and that line has to be strictly observed which is like a *Lakshman Rekha* and no variation of the same is possible unless it is so provided under the Rules itself. Both the Selection Committee as also the appointing authority are bound to act within the parameters of the Rules which are statutory in nature and any violation or any relaxation thereof whether by way of giving grace marks or rounding off would be acting beyond the parameters prescribed which would be illegal.”

5. Judgments can be multiplied and need not be cited to add heft to drive home a short point in controversy on a settled legal position.

6. For the reasons recorded above and upon paying regard to the submissions advanced before me on behalf of the petitioner, I find no space to bring relief to the petitioner and would, therefore, refuse issuing a writ, order or direction rounding off petitioner’s type speed i.e. 29.6 w.p.m. to the prescribed minimum speed of 30 w.p.m. for qualifying the type test and to bring her within the zone of eligibility and accordingly dismiss the petition being devoid of merit.

27.05.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No