

Sr. No.228

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

CWP No.26046 of 2016 (O&M)

Date of Decision: 15.05.2019

Manjit

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. K.S.Dadwal, Advocate,
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Anupam Singla, Advocate,
for respondents No.2 to 4.

ARUN MONGA, J.(ORAL)

As per advertisement dated 14.08.2016 (Annexure P-2), respondent-PRTC advertised 10 posts of 'Clerks' in the category of handicapped employees.

2. The petitioner is certified as 100% handicapped as per medical certificate issued by the Civil Surgeon, Gurdaspur which is an admitted fact as per para 2 of the written statement filed by the respondents-PRTC. The advertisement clearly stated that as per Instructions dated 02.11.1989 (Annexure P-1), in the case of physically handicapped person, relaxation from typing test has been provided. However, in the advertisement, only reference of the Instructions (Annexure P-1) was given and nothing was mentioned with regard to the contents of said Instructions. Later

on a public notice (Annexure R-2/1) was issued in the Newspaper 'Ajit' by the respondent-PRTC. The said public notice stated that in case an exemption from typing test is sought by the candidates, they have to submit a certificate issued by the competent authority i.e. Chief Medical Officer/Civil Surgeon in this regard.

3. The controversy herein is whether the petitioner, who is concededly 100% disabled, is to be granted exemption from typing test as envisaged in the advertisement?

4. Learned counsel for the petitioner contends that the petitioner was at Sr. No.3 in the merit list in Hearing Handicapped (HH) Category and admittedly being 100% disabled, he is to be granted exemption from typing test on account of similarly situated persons in HH Category.

5. Learned counsel for the petitioner further submits that even though persons who are granted the exemption, had submitted a certificate issued by the Civil Surgeon but owing to the understanding of the petitioner that said exemption is to be automatic as the advertisement did not state that a separate certificate was required, he could not submit the same. He submits that once it is a conceded position that the petitioner suffers from 100% disability in HH Category, he cannot be discriminated on the ground of non-submission of certificate particularly when the advertisement did not specifically prescribe submission of a separate certificate.

6. He further submits that as per his merit list in HH Category, the petitioner is entitled to be appointed to the post of

'Clerk' and vide order dated 16.12.2016, this Court had reserved one post of 'Clerk' to be filled up pursuant to the advertisement.

7. I am in agreement with the submissions of learned counsel for the petitioner that the respondent-PRTC ought to have been more specific in their advertisement. Even I am unable to comprehend as to how if one deaf person who is certified to be unable to take typing test by physicians is exempted while on the other hand, petitioner who is admittedly 100% deaf has to undergo the same test even though he is suffering from more severe form of disability, if not the same.

8. Contention of the learned counsel for the respondent that petitioner had appeared in the typing test in pursuance to Annexure P-1, conducted by the respondent and failed and, therefore, he is not entitled to be considered, is not tenable.

9. Per contra, learned counsel for the petitioner submits that petitioner had to per force undergo the said test as when he was called for typing test, as stated in para 7 of the writ petition, he protested at the time of undergoing type test.

10. Petitioner is held entitled to similar treatment in the HH Category wherein the other candidates who have been suffering from similar disability have been granted exemption from typing test.

11. In view of my above discussion and reasons contained therein, writ petition is allowed. Respondent-PRTC is directed to consider the case of the petitioner without insisting upon him to submit the medical certificate, in accordance with the merit list

maintained by the respondent-Corporation.

- 12. Let the needful be done within a period of 3 months from the date of receipt of a certified copy of this order
- 13. Petition is allowed in the aforesaid terms.

15.05.2019
vandana

(ARUN MONGA)
JUDGE

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