IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 507 of 2018
Date of decision : 13.03.2019

Kanwar Singh and others ..Petitioners

Vs.

State of Haryana and another ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhruv, Advocate
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana

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Ritu Bahri, J. (oral)

The petitioners have been appointed as Peons on 08.11.1991, 08.04.1991, 16.04.1992,12.4.1999 and 16.04.1999 respectively. Subsequently they were promoted from Peons to Clerks under the Haryana Excise and Taxation Commissioner's Office (Group-C) Service (Amendment) Rules, 2013 (in short 'the Rules, 2013'). Out of them, three petitioners were promoted on 20.08.2014 and the remaining two petitioners were promoted on 16.6.2015 and 17.07.2015 respectively.

The service conditions of the petitioners were governed by the Rules 2013 (Annexure P-2) whereby under the Rule 9A sub-clause (2) a candidate shall have to qualify the State Eligibility Test in Computer Appreciation and Applications (SETC) within the probation period of two years, extendable by one year in case of direct recruit.

As per the Rules 2013, the petitioners were to qualify the exam/test in the years 2016 and 2017 respectively.

As per the said Rule 6, candidates are exempted from taking the State Eligibility Test in Computer Appreciation and Applications on the following qualifications:

(i) M.Tech.B/Tech.(computers) MCA, BCA or Diploma in Computers from recognized institutions e.g. Polytechnics;

(ii) Basic Computer Literacy Certificate from any recognized centre established under the National Institute of Electronics and Information Technology (NIELIT) (erstwhile DOEACC Society);

(iii) Haryana State-Certificate in Information Technology (HS-CIT) from the Authorized Learning Centre (ALCs) of the HKCL;

xxx xxxx xxx xxxx"

Learned counsel for the petitioners states that in view of the Rules, 2013, the petitioners have a right to get benefit of increment from the date when they have obtained the certificate. He further states that similar benefits have been extended to the clerks who are working in the Animal Husbandry and Dairying Department, Haryana where Clerks have been given benefit of exemption from the passing of State Eligibility Test in Computer Appreciation and Applications.

The stand taken by the respondent that the claim of the petitioners, who claimed benefit of exemption under the Rules, 2013 as on date of promotion, the petitioners did not have the requisite qualification as detailed under Rule 6 of the notification with regard to the benefit extended. However, in the written statement, they are not denied that similar benefit of exemption have been extended to the employees of other department like Animal Husbandry and Dairying Department, Haryana and Marketing Board.

Learned State counsel has further argued that vide notification dated 17.11.2018, it has been mandatory to pass the SETC examination for all the Clerks, who have been promoted or by direct recruitment and these instructions have been issued keeping in view the directions given by this Court in ***<u>Uma Kant and others vs. State of Haryana (CWP-7630-2016)</u>*** decided on 4.9.2018.

A perusal of the instructions shows that it has been mandatory for all the clerks to qualify SETC exam within a period of six months i.e. by 31.05.2019.

Keeping in view the judgment passed by this Court in Uma Kant's case (supra), the Government has taken the following decisions:-

"1. Qualifying both the part 1 (knowledge test) and Part II (typing test) of the ETC (State Eligibility Test in Computer Applications) shall be compulsory for all the currently working Clerks and all those who want to work a Clerk on promotion or by direct recruitment.

2. The definition of Clerk includes Clerk-cum-Computer Operator, Office Associate, Clerk-cum-Date Entry Operator, Steno-typist, Data Entry Operator and Clerk-cum-typist.

3. Condition of passing the SETC shall apply to all clerks (whether regular or contractual) appointed by any mode of recruitment i.e. whether appointed on regular basis or transfer basis or promotion basis or deputation or under Part II of Outsourcing Policy, etc.

4. It shall be mandatory for all Clerks (as defined in para 1 above) to qualify SETC within a period of 6 months i.e. by 31st of May, 2019.

5. ***In case, any clerk wishes to be exempted from SETC Part 1 (computer knowledge test) they may acquire necessary computer knowledge certification (mentioned in Govt. instruction no. dated 7.11.2013 and 22.9.2017) from the approved sources/ authorized agencies i.e. Hartron, HKCL, NIELIT, etc.***

6. It may be brought to notice of the concerned, that expenditure incurred by the Clerk in acquiring SETC part 1 certification from authorized agencies/approved sources shall be reimbursed by their parent department upon successfully acquiring the said certification. The reimbursement shall be on actuals or maximum Rs.3500/- only.

7. SETC Part II i.e. Typing test shall be mandatory for all clerks. The typing test is being regularly conducted by HARTRON. The typing test is conducted both in English and Hindi. Employees must clear the typing test in any one language.
8. No further increment or promotion (where applicable) will be allowed to the clerks without passing both the components of SETC i.e. Part 1 (knowledge test) and Part III (typing test).
9. To provide legal framework for implementation of these instructions, the SETC Rules, 2018 are being framed and shall be issued shortly."

Even in these instructions, clerks can get exemption from passing the SETC Part I (computer knowledge test) if they acquire necessary computer knowledge certification, as per the Government notifications dated 7.11.2013 and 22.11.2013. No benefit have been given to the petitioners even after getting the certificate as per sub-rule (iii) of Rules 6 of the notification dated 08.11.2013.

The writ petition is accordingly allowed. The respondents are directed to give benefit of increment to all the petitioners from the date when they acquired certificate (Annexure P-3), within a period of three months from today.

(RITU BAHRI)
JUDGE

13.03.2019
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Whether speaking/reasoned : Yes/No
***Whether reportable :* Yes/No**