

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

Date of Decision: October 30th, 2019

1. **CWP No.9882 of 2017**

Satyavir Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

2. **CWP No.4277 of 2019**

Randhir Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Bhupesh Dogra, Advocate,
for the petitioner (in CWP No.9882 of 2017).

Mr. Dinesh Arora, Advocate,
for the petitioner (in CWP No.4277 of 2019).

Mr. Harish Nain, AAG, Haryana,
for the State.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two Civil Writ Petitions bearing No.9882 of 2017 and 4277 of 2019 as the controversy involved in both the petitions is the same. The facts are being taken from CWP No.9882 of 2017.

Petitioner allegedly was appointed on 17.11.1998 as Class-IV employee in service with Municipality Siwani (Bhiwani) and remained

posted in Octroi Branch, which became surplus and on account of restructuring, was adjusted in the Corporation department. However, after having rendered the service as Class-IV employee and gaining the experience, was promoted as Clerk. Promotion order contained the condition of clearing typing test in Hindi/English at the speed of 25 or 30 words per minute within a period of one year from the date of appointment. Petitioner is working for the last ten (10) years and performing all typing works and Annexure P-7, a communication from the Director, Urban Local Bodies, Chandigarh to all Executive Officers/Secretary Municipal Corporation/Municipalities for granting exemption from typing test condition of Class IV employees, promotees to the post of Clerk of State Municipalities from 05.12.1997, the date of notification to 24.09.2010 and, therefore, the impugned order is not sustainable as it is wholly opaque and illegal.

Per contra, Mr. Harish Nain, learned Assistant Advocate General, Haryana, representing the State submitted that the petitioners have failed to pass the test as per condition No.2, which was incorporated keeping in view the Appendix-B of Haryana State Cooperation Department Head Office and sub-offices (Group C) Service Rules, 1989 (for short, Rules 1989). The Assistant Registrar allowed annual increments to the petitioners without passing the departmental type test and on realising the audit objection, the impugned order was passed. Regarding the claim of exemption, it does not apply to the department of Corporation as it pertained to Municipalities even if the petitioners after having rendered surplus from Municipalities and adjusted in the Cooperative Societies.

I have heard the learned counsel for the parties and appraised

the paper book.

The relevant provision of 1989 Rules and condition No.2 of the appointment letter are reproduced as under:-

<i>Appendix-B (B) Sub-office 6. Clerk</i>	<i>Academic qualifications and experience, if any, for direct recruitment</i>	<i>Academic qualification and experience, if any, appointment other than by direct recruitment.</i>
<i>(i)</i>	<i>Matric/Higher Secondary or its equivalent.</i>	<i>Matric/Higher Secondary or its equivalent.</i>
<i>(ii)</i>	<i>Knowledge of Hindi upto Matric standard</i>	<i>Five years experience as Group D employee or combined experience as such;</i>
<i>(iii)</i>	<i>Shall have to qualify the departmental type test in Hindi/English at the speed of 25 or 30 words per minute, respectively within a period of one year from the date of appointment, failing which the annual increment shall not be allowed to him, when he qualifies the type test, he will be allowed increments due to him from the date of qualifying the type test but no arrear will be given to him.</i>	<i>Shall have to qualify the departmental type test in Hindi/English at the speed of 25 or 30 words per minute, respectively within a period of one year from the date of appointment, failing which the annual increment shall not be allowed to him, when he qualifies the type test, he will be allowed increments due to him from the date of qualifying the type test but no arrear will be given to him.</i>

Condition No.2

They have to qualify the department type test in Hindi/English at the speed of 25/30 words per minute respectively within the period of one year from the date of promotion failing which, the annual increment will not be allowed to them. When they shall qualify the type test they shall be allowed increment due to them but no arrear shall be given to them.”

There is no such argument or pleading with regard to non-

fixation of the test and availment of chance or any instance where the similarly situated persons have been granted exemption in terms of the letter Annexure P-7, addressed by the Director, Urban Local Bodies, Chandigarh to all the Executive Officers/Secretary Municipal Corporation/Municipalities, thus, the petitioners cannot even urge on account of parity or act of discrimination at the hands of the respondents. Imposition of condition in the appointment letter and as well as rules are sacrosanct. Any excess amount paid to the employees is always objected to by the audit department which has, in fact, been followed in the instant case.

I do not find any travesty of justice even if the petitioners have rendered ten years of service for re-fixation of the pay on account of the withdrawal of the increments.

Writ petitions are dismissed.

However, it is made clear that dismissal of the writ petition does not take away the right of the petitioners in requesting the department to allow them to undertake the type test, if permissible, in accordance with law or rules applicable.

October 30th, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No