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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 13.09.2019

+ LPA 591/2019

PARVESH

..... Appellant

Through: Mr. Siddhartha Shankar Ray,
Mr. Suryadeep Singh, Mr. Karan Tarkar &
Ms. Radha Tarkar, Advs.

Versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Vijay Joshi & Mr. Sameer Sinha,
Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.40807 /2019 (*Exemption*)

Allowed, subject to all just exceptions.

LPA 591/2019

1. This Letters Patent Appeal has been preferred by the original petitioner whose writ petition, being W.P.(C) 9312/2019, was dismissed by the learned Single Judge *vide* judgment and order dated 6th September, 2019 (Annexure P-1 to the memo of this LPA), whereby this appellant (original petitioner) was not allowed to rectify the form which was filled up by this appellant for the examination in question, especially when out of three examinations, two are already over and only the last one is left.

2. Having heard the counsel for both the sides and looking into the facts of the present case, it appears that the appellant (original petitioner) is

seeking correction in the form filled up by this appellant for Staff Selection Commission Combined Higher Secondary Level (10+2) Examination, 2017.

3. The form was filled up by this appellant as per the detailed instructions, which are at Annexure P-3 to the memo of this appeal.

4. There are three examinations; one is a computer-based examination which has already been conducted on 25th March, 2018; the second examination was descriptive in nature, and has already been conducted on 15th July, 2018 and now, the third examination is to be conducted, which is of English/Hindi Typing Test, and was to be held initially on 6th September, 2019, but is now being conducted till 22nd September, 2019 and some tests have been re-scheduled for 23rd and 24th September, 2019.

5. The form was filled up by this appellant (original petitioner) for three examinations. Two examinations are already over and for the third examination, he wants a change in the form, which was filled up much earlier. It appears that this appellant had opted for 'Hindi Typing Test' originally, and now he wants to opt for the 'English Typing Test'. If permitted, there will be a change in the form which is already filled up by this appellant. This is not permissible looking to Clause 13.3, which is to be read with Clause 13.1 of Notification No.3/3/2017-P&P-1. For ready reference, all these clauses, namely Clause 13.3 (page 65), Clause 23 (xix) (page 70) and Clause 13 (page 71) of this appeal respectively read as under:

“13.3 Typing Test for LDC/ JSA and Postal Assistant/ Sorting Assistant:

Typing Test will be conducted for those candidates who qualify in the Computer Based Examination (Tier-I) and Descriptive Paper (Tier-II). Such Typing Test will be conducted in English

or Hindi and candidates while applying for the Examination, will have to indicate his/her choice/ option for Skill Test Medium in the Application Form.

Typing Test will be administered on the Computer, to be provided by the Commission or any agency authorized by the Commission.

Candidates opting for English medium should have typing speed of 35 words per minute (w.p.m.) and those opting for Hindi medium should have typing speed of 30 words per minute.

The speed will be adjudged on the accuracy of typing on the Computer of a given text passage in 10 minutes. VH/OH (afflicted by Cerebral Palsy) and OH with deformity in writing hand (with 40% disability and above) will be allowed 30 minutes including compensatory time 20 minutes.

Passage Dictators will be provided to VH candidates for the Typing test. The Passage Dictator will read out the passage to VH candidate within the allotted time period. Further, Passage Dictators will be allowed for Typing Test only to those VH candidates who have taken Scribe in the written examination.

35 w.p.m. and 30 w.p.m. corresponds to 10500 key depressions per hour and 9000 key depressions per hour respectively.

OH candidates who claim to be permanently unfit to take the Typing test because of a physical disability may, with the prior approval of the Commission, be exempted from the requirement of appearing and qualifying at such test, provided such a candidate submits a Certificate in the prescribed format to the Commission from the competent Medical Authority, i.e., the Civil Surgeon declaring him/ her to be permanently unfit for the Typing Test because of a physical disability.

If an OH candidate who submits a Medical Certificate from the Medical Board attached to VRC for PwD persons or from the Medical Board attached to Special Employment Exchange for PwD persons, his/ her claim for exemption from Typing Test would be accepted. However, if, he/ she submits Medical Certificate from Civil/ Orthopaedic Surgeon, his/her case would be referred to a Medical Board in a Government Hospital or Medical Board attached to VRC/Special Employment Exchange for PwD persons for clearance.

OH Candidates seeking exemption from Typing test on medical ground must substantiate their claim by furnishing the relevant Medical Certificate in the prescribed format as per Annexure-VII of this Notice of Examination (Form II & IV) at the time of Typing Test.

Otherwise their claim for seeking exemption from Typing Test will not be entertained by the Commission.

If any candidate does not opt for any medium for typing, his option will be deemed to be for English medium.

Only those candidates who secure at least the minimum qualifying marks in the Computer Based Examination (Tier-I) and Descriptive Paper (Tier-II), as may be fixed by the Commission at its discretion, will be called for Typing Test. The Commission may also, at its discretion, fix the minimum qualifying marks in each component of the written examination.”

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“23. (xix) Request for change/ correction in any particulars in the Application Form, once submitted will not be entertained under any circumstances.”

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“13. Candidate should thoroughly check all the entries filled in the online application form, before final submission. In case of

any discrepancy, relevant entry may be corrected/edited. After final submission of online application, no change in any particular shall be allowed.”

6. In view of the aforesaid instructions issued by the respondents and in view of the fact that the form was filled up much earlier, i.e., in the year 2017, no change can now be permitted by this Court. The directions enumerated in Annexure P-3, which are instructions, ought to be followed by all applicants. Moreover, out of three examinations two are already over and hence, there cannot be any alteration in the form which is already filled up by this appellant, in the midst of the tests for third subject. This aspect of the matter has already been appreciated by the learned Single Judge in W.P.(C) 9312/2019 *vide* judgment and order dated 6th September, 2019.

7. Much has been argued by the counsel for the appellant that the instructions, which are at Annexure P-3, are not mandatory in nature and are merely directory in nature. We cannot accept this contention, especially looking to the clauses of the instructions, as stated hereinabove. No changes in a filled-up form are permitted. If such changes are allowed, there may be more applicants who may seek changes in filled-up forms every now and then. Alterations or amendments in completed forms by applicants cannot be allowed as a regular feature. The applicants are not illiterate persons. These applicants are in search of Government employment, such as Lower Division Clerk, Junior Secretariat Assistant, Postal Assistant, Data Entry Operators etc. The public advertisement, regarding these vacancies, was dated 18th November, 2017. When an applicant applies for such public posts, he must be careful in filling up the forms. Once the form is filled up, the candidates know, in advance, that no alteration shall be permitted. This

alteration prayed for by this appellant, from 'Hindi Typing Test' to 'English Typing Test', is not permissible at this stage.

8. Counsel for the appellant has also submitted that had there been no option given by this appellant, English Typing Test would automatically have been selected in the form. This argument is also of no help to this appellant because such clause, which is mentioned at Annexure P-3, is not applicable to this appellant/applicant, as he has already chosen his option in the form as Hindi Typing Test. Therefore, now, it cannot be said that had no option was given by this appellant and it would automatically have been 'English Typing Test'.

9. Thus, the facts of the present case warrant no change in Typing Test from Hindi to English. The aforesaid aspect of the matter has been appreciated by the learned Single Judge while deciding W.P.(C) 9312/2019 *vide* judgment and order dated 6th September, 2019 and we are in full agreement with the reasons given by the learned Single Judge. Hence, there is no substance in this appeal.

10. With the aforesaid observations, this Letters Patent Appeal is dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 13, 2019

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