

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

**CWP No.14343 of 2015 (O&M)**

**Date of decision:10.10.2022**

Sudarshan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. J.K. Goel, Advocate  
for the petitioner.

Mr. R.K.S. Brar, Addl.A.G., Haryana.

\*\*\*

**ARUN MONGA, J.(ORAL)**

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing of impugned condition of passing of Typing Test inserted in promotion order dated 24.05.1993 (Annexure P-1) and orders dated 11.11.2013 and 16.06.2015 (Annexures P-12 & P-19 respectively) and also for directing the respondents to grant the benefit of 1<sup>st</sup> ACP Scale w.e.f. 01.05.2003.

2. Succinct facts first. Petitioner was appointed as Peon on 29.08.1988 in the Office of respondent No.3-Revenue and Disaster Management Department, Panchkula. The respondent authorities promoted the petitioner from the post of Peon to Clerk vide order dated 24.05.1993 (Annexure P-1) subject to the condition that he will qualify the departmental type test within a period of 6 months in Hindi and

English at a speed of 25/30 word per minute and that very condition is

impugned in the present petition. Second grievance of the petitioner is with regard to grant of ACP scale w.e.f. 01.05.2003 i.e. after a period of 10 years of service.

3. Concededly the petitioner was accorded promotion from the post of Peon to Clerk in the year 1993 in terms of instructions dated 13.08.1976 issued by the Chief Secretary, Haryana and referred to in preliminary submissions, para No.1 of written statement, which envisage that following qualifications are essential for appointment of Clerk other than A-Class Offices:-

- “1. Matric/Higher Secondary or equivalent*
- 2. Knowledge of Hindi upto Matric Standard*
- 3. Hindi or English Typing at a speed of 25/30 words per minute respectively.”*

4. *Apropos* above, the petitioner accepted his promotion and at no stage either protested or gave any representation that while other similarly situated Peons were accorded exemption from Typing Test as is canvassed by the learned counsel for the petitioner vehemently but the petitioner has not been given such an exemption. Petitioner continued to serve as Clerk for as many as 17 years thereafter and retired in the year 2010. Even after his retirement, there was no grouse or any kind of protesting whisper till the filing of the first writ petition that the petitioner has been meted out with hostile discrimination inasmuch as the denial of ACPs which ought to have been given to him on parity with others without passing Typing Test, but they were given the said benefit. Notwithstanding, out of the bolt from blue for the first time he approached this Court vide petition bearing CWP No.10639 of 2013. The same was disposed of vide order dated 16.05.2013 (Annexure P-10) with a direction to the respondents to decide claim of the petitioner regarding benefit of

Assured Career Progression (ACP) Scheme under the Haryana Civil Services (Assured Career Progression) Rules, 1998. Then he filed LPA which was decided vide order dated 08.07.2013 (Annexure P-11), whereby the order dated 16.05.2013 passed by the Learned Single Judge was modified to the extent that if petitioner's claim is accepted, his pay shall be fixed notionally but revised pensionary benefits including arrears thereon shall be granted to him with effect from the date of his retirement. In view of the aforesaid orders of this Court, respondent No.2 vide order dated 11.11.2013 (Annexure P-12) decided that since the petitioner had not fulfilled the condition of passing the Typing Test for promotion on higher post, he was not entitled for the grant of A.C.P. Thereafter, the petitioner again filed CWP No.10927 of 2014, which was disposed of vide order dated 29.05.2014 (Annexure P-13) and it was directed that the respondents shall pass a speaking order on the claim of the petitioner. Thereafter, vide impugned order dated 16.06.2015 (Annexure P-19) passed by the respondent No.2 the claim of the petitioner has been rejected, which is premised on the following reasons:-

- Petitioner did not pass the type test within a period of six months as per the conditions laid down in his promotion order and therefore he is not entitled to annual increment, ACP etc.
- Representation was filed by the petitioner after more than three years of retirement from service and, therefore, his claim is liable to be rejected on the ground of delay and laches.

5. Having perused the speaking order impugned herein, I find no irregularity either in facts or in law so as to accord any benefit under the extraordinary writ jurisdiction. That apart, trite it is to say that once the petitioner had acquiesced to the alleged injustice meted out to him and

the alleged hostile discrimination for as many as 21 years, the claim of the petitioner has to be rejected on the ground of delay and laches.

6. Reliance is being placed by the learned counsel for the petitioner on the Apex Court judgment passed in *State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others, (2015) 1 Supreme Court Cases 347*. However, the same carves out a clear-cut distinction as in that case, by way of judicial verdict, the benefits have **not** been directed to be given in *rem*, **and** present is a case where there is no verdict directing the respondents to accord the benefit across board to similarly situated employees. Reliance is also being placed on Learned Single Bench's judgment dated 03.09.2001 passed in CWP No.5566 of 1999, titled *Prithvi Raj vs. State of Haryana and others*. In this case also, the relief accorded to the petitioner therein was in *personam* and not in *rem*.

7. In the premise, no ground to interfere is made out. Petition is accordingly dismissed.

8. Pending civil miscellaneous application, if any, also stands disposed of.

**October 10, 2022**  
*ashish*

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No