

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP No. 25535 of 2021 (O&M)
Date of Decision:08.04.2022

Hemant Kumar and others

.....Petitioners

Versus

High Court of Punjab and Haryana and another

..... Respondents

AND

2.

CWP No. 25880 of 2021 (O&M)

Amarnath and others

.....Petitioners

Versus

Registrar General, Punjab and Haryana High Court and another

..... Respondents

AND

3.

CWP No. 3246 of 2022(O&M)

Gourav Sharma and another

.....Petitioners

Versus

The Punjab and Haryana High Court and another

..... Respondents

AND

4.

CWP No. 3400 of 2022 (O&M)

Rajesh Kumar and others

.....Petitioners

Versus

High Court of Punjab and Haryana and another

..... Respondents

AND

5.

CWP No. 3668 of 2022 (O&M)

Sandeep Kumar and others

.....Petitioners

Versus

High Court of Punjab and Haryana and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. R.K.Arora, Advocate
for the petitioners (in CWP No. 25535 of 2021).

Mr. Naresh Gopal Sharma, Advocate
Mr. Vishal Mehta, Advocate
Mr. Vipin Kumar, Advocate
Mr. Arjun Kapur, Advocate
for the petitioners (in CWP No. 25880 of 2021).

Mr.Ashutosh Kaushik, Advocate,
for the petitioners (in CWP No. 3668 of 2022).

Mr. M.S.Longia, Advocate
for the petitioners (in CWP No. 3246 of 2022).

Mr. Ankit Chowdhri, Advocate
for the petitioners (in CWP No. 3400 of 2022).

Mr. Munish Kapila, Advocate
for respondent no.1. (in CWP Nos. 25535, 25880 of 2021 and
CWP Nos. 3246 and 3400 of 2022).

Mr. Namit Kumar, Advocate
and Mr. Alankrit Bhardwaj, Advocate
for respondent no.2-SSSC.

LISA GILL, J(Oral).

This order shall dispose of CWP Nos. 25535, 25880 of 2021
and CWP Nos. 3246, 3400 and 3668 of 2022.

Petitioners in all these writ petitions are aggrieved of a 'single
joint spread sheet /Computer Proficiency Test' and joint English Shorthand
test for the posts of Stenographer Grade-III, being conducted by respondent
no.2 in respect of two separate advertisements for the subordinate Courts of
Punjab and Haryana.

The abovesaid writ petitions constitute two different sets i.e.,
CWP no. 25535 of 2021 and CWP No. 25880 of 2021, which have been
filed by the candidates prior to participation in the selection process
inasmuch as after submitting their applications, said petitioners have filed

the writ petitions for quashing of notice dated 26.11.2021, challenging the conduct of a join computer proficiency test in respect to the separate advertisements, whereas the other three writ petitions have been filed by candidates who after participation in the said computer proficiency test conducted on 18.12.2021 and 19.12.2021, respectively were unsuccessful therein.

Brief facts necessary for adjudication of the matter are that CWP No. 25535 of 2021 and CWP No. 25880 of 2021 were filed by the petitioners with the pleadings that two separate Advertisements No. 28-S and 29-S dated 17.08.2021, Annexures P-1 and P-2, were issued by the Society for Centralized Recruitment of Staff in Subordinate Courts (for short 'SSSC'), under the Punjab and Haryana High Court, Chandigarh for the post of Stenographer Grade-III. Total number of existing and anticipated vacancies advertised for the State of Haryana is 162 and for the State of Punjab 283. Last date for applying online was specified as 07.09.2021. It is submitted that the posts in question are regulated by separate Service Rules in both the States. Salary, pay and allowances are governed by the respective Rules of both States. Different age limits are stated to be prescribed in the States of Haryana and Punjab respectively.

Petitioners are stated to have submitted two different applications along with the stipulated non-refundable examination fees pursuant to both the advertisements. Notice dated 26.11.2021, attached as Annexure P-5, with CWP No. 25535 of 2021, was issued, wherein it is mentioned that in view of the large number of applications received, it was decided to first hold a 'single' joint computer proficiency test for the candidates who had applied for the post of Stenographer Grade-III in the Subordinate Courts of Punjab and Haryana, which would be of 10 marks and

only those candidates who secured 60% marks in the said test, shall be considered eligible for appearing in the Shorthand Typing Test. The test, it is stated would be held on 18.12.2021 and 19.12.2021, at the venue as indicated.

Aggrieved from this notice, the abovesaid two writ petitions were filed *inter alia* on the ground that a joint Computer Proficiency Test cannot be held as it amounts to minimizing the chances of the petitioners, who have applied for the posts advertised separately vide two different advertisements.

Notice of motion was issued on 15.12.2021 to respondent no.2 with interim relief being specifically denied on 17.12.2021 while observing that the Computer Proficiency Test is admittedly a qualifying test only. Written statement was filed. In the meanwhile, notice dated 08.02.2022, attached as Annexure P-22 with CM-1826-CWP of 2022 in CWP No. 25535 of 2021 was issued by respondent no.2 informing that the English Shorthand test for the post of Stenographer Grade-III in subordinate Courts of Punjab as well as Haryana would be held on 27.02.2022 tentatively in multiple batches at the venue as detailed. A joint English Shorthand Test was notified to be held for concerned candidates.

CM-1824-CWP of 2022 was filed in CWP No. 25535 of 2021, challenging the said notice and seeking stay thereof. CM-1826-CWP of 2022 was also filed in the said petition for placing on record affidavit dated 10.02.2022 of petitioner no.1, seeking modification in the selection criteria and seeking fixing of 40% i.e., 4 out of 10 marks instead of 6 Marks as per the advertisement/notice. It was directed on 24.02.2022 that the English Shorthand Test scheduled to be held on 27.02.2022 may be conducted, but result thereof be not declared.

CWP Nos. 3246, 3400 and 3668 of 2022, have been filed by the unsuccessful candidates who participated in the Computer Proficiency Test, but failed to make the mark. It is pleaded by them that cut of marks for qualifying test have been incorrectly raised from 4 Marks (40%) to 6 Marks (60%) mid-way during the selection process and that too at a short notice, in contravention to the procedure followed during the previous selection for recruitment to the post of Stenographer Grade-III in the State of Punjab and Haryana and U.T. Chandigarh. They have also raised the question of justification or otherwise of conducting a Single/Joint Computer Proficiency Test. Notice dated 08.02.2022, Annexure P-6, has also been challenged in the said writ petitions. In this factual matrix all the writ petitions were taken up together for hearing with the consent of all learned counsel for the parties.

Learned counsel for the petitioners vehemently argued that the action of respondent no.2 in firstly holding a joint Computer Proficiency Test and then the joint English Shorthand Test is completely unjustified and illegal. It is submitted that once there are two separate advertisements which have been issued for the subordinate Courts in two different States admittedly having distinct and separate applicable Rules, there was no justification whatsoever for holding a joint test. It is submitted that apart from minimizing the chances of the petitioners, petitioners have been made to compete with unequals. Mr. Arora, learned counsel for the petitioners in CWP No. 25535 of 2021, submits that the minimum prescribed age in the State of Haryana is 17 and maximum 42 years for General Category while in the State of Punjab, minimum age is 18 years and maximum 37 years. Rules governing reservation, it is contended are also disparate with the qualifications being slightly different in both the States, as well. Therefore, it

is apparent that the candidates have been made to compete with unequals. It is further submitted that there is no reason whatsoever for conducting a joint test. It is urged that it was incumbent upon the respondents to have conducted the test for both the States separately in order to ensure proper selection in a fair and transparent manner while maintaining purity of the selection. It is thus prayed that these writ petitions be allowed and notice dated 26.11.2021 and 08.02.2022 be set aside and the Computer Proficiency Test as well as the English Shorthand Test be held separately for subordinate Courts of both the States.

Per contra, learned counsel for respondent no.2, while refuting the arguments raised on behalf of the petitioners, submits that in view of the large number of applications received for the said posts, it was decided to first hold a 'single' joint Computer Proficiency Test which is admittedly a qualifying test. In order to invite meritorious candidates, it was decided to prescribe that only those candidates, who secure 6 or more than 6 marks, would be considered eligible for appearing in the Shorthand Typing Test and the decision for fixing the criteria of securing minimum 60% marks for the Computer Proficiency Test was duly taken by the Central Recruitment Committee of the High Court in its meeting held on 24.11.2021. Decision to hold the joint Computer Proficiency Test and the English Shorthand Test, it is submitted was duly taken by the Central Recruitment Committee of this High Court, whose decision in all matters relating to the mode/criteria for selection etc., is final and binding. Reference is made to Clause 6 of the Advertisement. It is argued that the rules regarding age, fee and reservation, do not in any manner affect the holding of a 'single' joint Computer Proficiency Test or the English Shorthand Test, keeping in view the relevant applicable rules in both the States.

Learned counsel for respondent no.2 submits that result of the candidates for the States of Punjab and Haryana, who have taken the Computer Proficiency Test, has been prepared in such a manner that separate lists have been prepared for two States. Similarly, in respect to the candidates who have taken the English Shorthand Test, lists shall be prepared separately and common candidates shall be considered in the merit list to be prepared separately for both the States, thereby taking care of the apprehension of the petitioners that competition would be amongst unequals. The same shall be confined amongst the candidates who have applied under the said advertisement in the particular State.

Learned counsel for respondent no.2, further refutes the argument regarding minimization of chances of the petitioners while submitting that Stenography is a skill which clearly requires long continuous practice. Therefore, the contention that there is deprivation of a chance, leading to any prejudice to the petitioners is denied.

In respect to CWP Nos. 3246, 3400 and 3668 of 2022, it is submitted that these writ petitions should be dismissed at the very outset being not maintainable as they have been filed by candidates who have been unsuccessful in the selection process after due participation. It is thus prayed that all the writ petitions be dismissed being devoid of any merit.

I have heard learned counsel for the parties and have gone through the files with their able assistance.

Admittedly, two advertisements of even date i.e., 17.08.2021, were issued for inviting applications for the posts of Stenographer Grade-III in the subordinate Courts of Haryana and Punjab. Qualification for the post in the State of Haryana reads as under:-

“QUALIFICATION:

The applicant should possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and must have proficiency in operation of computers (Word Processing and Spread Sheets).

He/she should have passed matriculation examination with Hindi as one of the subject. Candidates who have not passed matriculation with Hindi as one of the subject can apply however, they would be required to pass the same within the probation period, if selected, failing which their appointment shall stand cancelled.

Note: The applicant, who possesses degree of graduation from any stream i.e., Arts, Commerce, Science or Computer is eligible.”

Qualification for the said post in State of Punjab reads as under:-

2. **QUALIFICATION:**

The applicant should possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and must have proficiency in operation of computers (Word Processing and Spread Sheets).

He/she should have passed matriculation examination with Punjabi as one of the compulsory subject or any other equivalent examination in Punjabi Language. Candidates who have not passed matriculation with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi Language at matriculation level can only apply however, they would be required to pass the same within the probation period, if selected, failing which their appointment shall stand cancelled.

Note: The applicant, who possesses degree of graduation from any stream i.e., Arts, Commerce, Science or Computer is eligible.”

It is thus clear that the only difference in the qualification is that

in the State of Haryana, candidates should have passed their matriculation examination with Hindi as one of the subject and in Punjab with Punjabi. Furthermore, it is provided in both the advertisements that candidates who have not passed matriculation with the language in question as compulsory or elective subject can apply, but they would be required to pass the same within the probation period, if selected, failing which their appointment shall be cancelled.

It is a matter of record that the mode of selection in both the advertisements is identical and reads as under in both the advertisements:-

4. MODE OF SELECTION

“The candidates will have to qualify the English Shorthand Test and its Transcription at the speed of 80 W.P.M and 20 W.P.M respectively. The candidates will also have to qualify a Computer Proficiency Test.

The Hon’ble Central Recruitment Committee reserves the right to decide the permissible percentage of mistakes in the transcription of English Shorthand Test and permissible marks required to qualify the Spreadsheet exam depending upon the number of vacancies and number of candidates available.

It is clarified that said Computer Proficiency Test is mandatory but the same is of qualifying nature only and its marks or performance will not be counted towards final merit which will be based only upon the performance in the English Shorthand Test and its Transcription.

The number of candidates as decided by Hon’ble Central Recruitment Committee, who qualify the English Shorthand Test and Computer Proficiency Test, will be called for checking of original testimonials/interaction.

Thereafter, Select List of the qualified candidates will be prepared strictly on the basis of merit in the English Shorthand Test & its transcription. Name of eligible candidate (s) higher in merit would be recommended for appointment as per the number of vacancies to be filled. In case, if two or more

candidates have obtained same marks, then the candidate elder in age among the same scorers be kept higher in merit.”

As per Clause 6 of the Advertisement, it is specifically mentioned that decision of the Central Recruitment Committee shall be final and binding in all matters relating to acceptance or rejection of an application as well as eligibility/ suitability of the applicants mode/ criteria for selection and that the Central Recruitment Committee may shortlist the candidate at any stage of recruitment process on the basis of some criteria.

Clause 6 of both the Advertisements reads as under:-

“6. SPECIAL INSTRUCTIONS:

The decision of the Hon’ble Central Recruitment Committee in all matters relating to acceptance or rejection of an application, eligibility/ suitability of the applicants, mode/criteria for selection etc., shall be final and binding on the applicants. The Hon’ble Central Recruitment Committee may shortlist the candidates at any stage of the recruitment process on the basis of some criteria. No inquiry or correspondence shall be entertained in this regard.”

It is a matter of record that the Central Recruitment Committee, in its decision dated 24.11.2021, decided that in view of the large number of applications for the posts in question, it was decided to hold a ‘single’ joint Computer Proficiency Test, which would be out of 10 marks and only those candidates who secure 6 Marks or more than 6 marks in the said test, shall be considered eligible for appearing for the Shorthand Typing Test. It is relevant to note at this stage that as per the information supplied, total 19,517 applications were received with 11,005 for the posts in the State of Haryana and 8512 for the posts in the State of Punjab and 4916 candidates applying for the posts in both the States.

In this situation, decision of the Committee to hold the joint

Computer Proficiency Test of 10 Marks cannot be faulted in any manner. Admittedly, the Computer Proficiency Test is mandatory as is mentioned in the advertisements, though of a qualifying nature. It is stated in advertisement that 'it is clarified that said Computer Proficiency Test is mandatory but the same is of qualifying nature only and its marks or performance will not be counted towards final merit which will be based only upon the performance in the English Shorthand Test and its Transcription'.

It is further a matter of record that the Central Recruitment Committee, is empowered to determine the permissible marks required to qualify the spreadsheet examination depending upon the number of vacancies and number of candidates available. It is clearly stated in the advertisement itself in Clause 6 and particularly in Clause 4 that the Central Recruitment Committee reserves the right to decide the permissible marks required to qualify the spreadsheet exam depending upon the number of vacancies and number of candidates.

I do not find any merit in the argument raised by learned counsel for the petitioners that the criteria of 60% marks has been incorrectly set by the Committee in the given facts and circumstances. Merely to say that on earlier occasions 40% marks had been set as the criteria, cannot be a ground to say that for all times to come this is the only criteria to be followed and is not be subjected to change. Similarly, the plea that sufficient notice of this criteria was not given is devoid of merit as it is a matter of record that notice of Computer Proficiency test to be held on 18.12.2021 and 19.12.2021 was issued on 26.11.2021. Nothing has been pointed out as to how this criteria is not justified or has been incorrectly determined.

At this stage, it is gainful to refer to the relevant rules prescribing selection criteria for direct recruitment of Stenographer Grade-III in the States of Punjab and Haryana which indicate that holding of a joint single test is not antithetical thereto. Relevant rule in Haryana Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997 read as under:-

“vi. [Stenographer Grade III (English): Appointed to the post of Stenographer Grade III shall be made by direct recruitment from : Candidates who possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass a test at a speed of 80 W.P.M in English Shorthand and 20 W.P.M in transcription of the same and have proficiency in computers (Word Processing and Spread Sheets). The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.] {Rule 7 (vi) amended vide correction slip no. 73 Rules /II.D4. dated 09.11.2015}”

As per the relevant portion of Punjab Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997, the selection criteria is reproduced as below:-

“Candidates who possess a degree of Bachelor of Arts and Bachelor of Science or equivalent thereto from a recognized university and pass a test at a speed of 80 W.P.M in English shorthand and 20 W.P.M. in transcription of the same and have proficiency in computers (Word Processing and Spread Sheets). The select list so prepared on the basis of merit shall remain in force for one year from the date of declaration of result.]”

Another argument vehemently pressed into service by learned counsel for the petitioners is that further holding of the joint Shorthand Test has worked positive discrimination between the candidates and is unjustified, inasmuch as the same is a qualifying examination and the marks

thereof are the basis for drawing up the merit. However, this argument is also devoid of any merit and is rejected. It has been succinctly explained that there is no question of any discrimination or any question of unequals being made to compete against each other inasmuch as separate merit lists are being prepared and it is not as if candidates who have applied for appointment in one State shall be made to compete with the candidates of the other State. It is categorically asserted that the competition for posts of Stenographer Grade-III in one State shall be strictly amongst the candidates who have applied for the post under that particular State only. Merit lists, it is stated shall be prepared separately.

It is informed that 2383 candidates had been called for English Shorthand Test for the posts in question for the State of Punjab and 2664 candidates for the State of Haryana. Furthermore, among the said candidates 1984 candidates are those who have applied for the post in both the States.

It has been pointed out that result prepared after conducting of the Computer Proficiency Test, clearly indicates that the result shall be drawn up separately for both the States and that common candidates shall be considered separately for both the States according to their performance in the English Shorthand Test. Decision to conduct a Joint English Shorthand Test was duly taken by the competent body i.e., Central Recruitment Committee in its meeting held on 07.02.2022. There is again nothing on record to impugn the said decision.

Argument raised by learned counsel for the petitioners that chances of the petitioners have been minimized inasmuch as they have been deprived of one chance by the conduct of a joint test, is an argument which may appear to be attracted at first flush, but it is in-fact devoid of any merit especially keeping in view the given factual matrix. The post of

Stenographer clearly involves a skill which is not dependent upon any chance etc., and it is not as if a candidate would suddenly acquire proficiency overnight.

Moreover, as noted in the foregoing paras, the eligibility conditions being as they are in both the States and the mode of selection being identical, the Central Recruitment Committee was well within its right to direct conducting of the joint Computer Proficiency Test at the first instance and thereafter conduct of the joint English Shorthand Test. Merely to say that it has led to minimizing of the chances of the candidates, therefore decision of the Central Recruitment Committee, should be set aside, is clearly devoid of any merit. Learned counsel for the petitioners have been unable to show any kind of prejudice which may have been caused to the petitioners by the act of holding the joint Computer Proficiency Test and joint English Shorthand Type Test, which is clearly not barred in any manner.

Insofar as CWP Nos. 3246, 3400 and 3668 of 2022, are concerned, said writ petitions are liable to be dismissed on the ground of not being maintainable, having been filed by unsuccessful candidates after participation in the selection process. It is not open for the said petitioners to challenge the criteria after having participated in the process of selection. Reliance in this regard can gainfully be placed upon **D.Sarojkumari Vs. R. Helen Thilakom & Ors., 2017(4) SCT 494** and judgement of the Hon'ble Supreme Court in **Chandra Prakash Tiwari and others Vs. Shakuntala Shukla and others (2002) 6 SCC 127**.

Last but not the least, it is to be mentioned that during the pendency of these writ petitions, a representation through e-mail was received with reference to CWP No. 25535 of 2021 allegedly addressed

from one Jatin Kamra and Parmeet Sheoran. A query was put to learned counsel for the petitioners as one of the petitioners in CWP No. 25535 of 2021 was named Jatin, however learned counsel submitted that this e-mail has not been sent by any of the petitioners though one of them is otherwise named Jatin Saini.

It is stated in the representation that the dictation which was given in the English Shorthand Test, was not proper as it was initially given at a slow speed and at the last stage, the person dictating, just to cover his fault of speed fluctuation, dictated the passage at a high speed and it was impossible to cope with that variation. This inability on the part of the person in not giving dictation at a uniform speed, it is stated has put the career of aspirants at stake. Though, it is not necessary to even take notice of these representations, but as the matter was being dealt with, specific query was put to learned counsel for respondent no.2 regarding the dictation and it was brought to notice that the dictation is given by way of pre-recorded passages. Therefore, such an objection is clearly frivolous.

Keeping in view the facts and circumstances, I do not find any ground whatsoever to interfere in these writ petitions.

No other argument has been addressed.

Accordingly, all these writ petitions are dismissed with no order as to cost.

08.04.2022
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.