

256 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.2667 of 2023 (O&M)
Date of decision : 13.03.2023

Yogesh Gill & ors.

..... Petitioners

versus

State of Punjab & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. S.S.Walia, Advocate
for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

Mr. Aman Sharma, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Petitioners by way of present writ petition pray for issuance of writ in the nature of certiorari for quashing order dated 11.01.2023 (Annexure P-13) whereby the result of type test held on 02.09.2022 which was declared on 04.10.2022 stands annulled and the test has been re-scheduled for 14.02.2023.

Petitioners were appointed on compassionate ground as Clerk with the respondent-Corporation. One of the conditions imposed in the appointment was that they will have to clear the type test in English and Punjabi within one year from the date of their joining the service failing which they shall be down graded to Class-IV posts. On 31.08.2022 the Corporation notified the test for 02.09.2022. Test was conducted on the said date. The result was declared on 04.10.2022. A pseudonymous complaint was received by the respondent-Corporation on 07.11.2022 alleging certain shortcomings and bungling in the type test conducted

by the Corporation. Respondent-Corporation after taking cognizance thereof annulled the result vide impugned order and notified a fresh test for 14.02.2023. On 14.02.2023 the test was not held and was re-scheduled for 28.02.2023. The petitioners did not participate in the same and remained absent.

Learned counsel for the petitioners submits that as per circular No.03/03/16 dated 07.03.2016 issued by Central Vigilance Commission there is specific instructions to all the Administrative authorities not to act upon the pseudonymous complaints and thus the authority erred in cancelling the result of the type test. He further relies upon the judgment passed by this Court in ***Deependra Singh Garcha Vs. State of Punjab & ors., (2020) 2 SCT 362*** to hammer forth his contention.

Learned counsel for the respondents on the other hand submit that after the complaint was received, in order to remove any apprehension a conscious decision was taken by the authority to annul the result. However, at the same time in order to ensure that no prejudice is caused to any of the candidates the examination was re-scheduled. He further submits that even on 15.02.2023 an offer was made to the petitioners to take as much time as convenient to them which can be extended to two months and thereafter appear for the type test. However, the same was not accepted by the counsel representing the petitioners. He further submits that even today the respondents-Corporation is ready to allow the petitioners to undertake training programme and thereafter appear for the type test. He has brought communication dated 07.03.2023 to the said effect.

I have heard learned counsel for the parties and have gone through the records of the case.

The contention of the petitioners with respect to claiming that the action of the respondents-Corporation is illegal and thus deserves to be set aside for

having acted upon a pseudonymous complaint deserves to be noticed and rejected. There is no doubt that the circular No. 03/03/16 dated 07.03.2016 issued by Central Vigilance Commission does lay out certain precautions to be taken while considering anonymous/pseudonymous complaints and likewise this Court in the case of *Deependra Singh Garcha's case supra* quashed the action of the respondents-authorities based upon a pseudonymous complaint but the same cannot preclude an employer from taking into consideration the facts related to the incident and take a conscious decision. Once employer in its own wisdom has taken a conscious decision to annul the type test and wants the same to be re-conducted in order to allay any apprehension such action of the employer cannot be termed to be illegal, unjust or arbitrary. An employer has a right to satisfy itself with respect to the competence of the employee and the Court while exercising jurisdiction under Article 226/227 of the Constitution of India cannot be an impediment in such right being exercised by the employer. The conduct of the petitioners during the pendency of the writ petition while declining the repeated offers made by the respondents-Corporation also does not help their cause.

Finding no merit in the present writ petition, the same is ordered to be dismissed. However, liberty is granted to the petitioners to exercise their rights as conveyed to them in the communication dated 07.03.2023.

(PANKAJ JAIN)
JUDGE

13.03.2023

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No