

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-11620-2023

Gulchaman

....Petitioner

Versus

The State of U.T. Chandigarh and another

....Respondent

2 CWP-11639-2023

Shikha Shukla and others

.....Petitioners

Versus

The State of U.T. Chandigarh and another

Date of decision: - 28.07.2023

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gaurav Datta, Advocate,
Mr. Vikas Sharma, Advocate and
Mr. Gurkirat S. Kherwal, Advocate
for the petitioner(s).

Mr. Arav Gupta, Advocate
for respondent No.1 in CWP-11620-2023.

Mr. Ashish Rawal, Advocate
and Mr. Rakesh Sobti, Advocate
for respondent No.1 in CWP-11639-2023.

Mr. Saurabh Goel, Advocate
and Ms. Shivani Sahni, Advocate
for respondent No.2 in both petitions.

VIKAS BAHL, J.

1. This order will dispose of two writ petitions i.e. CWP-11620-
2023 titled as 'Gulchaman Vs. The State of U.T. Chandigarh and another'
and CWP-11639-2023 titled as 'Shikha Shukla and others Vs. The State of

U.T. Chandigarh and another', as common questions of law and facts are involved in both the writ petitions.

2. With the consent of learned counsel for the parties, CWP-11620-2023 is being taken up as the lead case and the pleadings of the said case are being considered for the adjudication of the case(s).

3. Learned counsel for the petitioners has submitted that the petitioner Gulchaman is a qualified Stenographer and is doing his private work for the last 9 years and had applied for the post of Stenographer Grade-III in pursuance of the advertisement/employment notice dated 05.05.2023 (Annexure P-1), vide which, the Society for Centralized Recruitment of Staff in Subordinate Courts under the High Court of Punjab and Haryana on behalf of the District and Sessions Judge, Chandigarh, had invited online applications from eligible candidates for filling up seven vacant posts of Stenographer Grade-III of direct quota. Learned counsel for the petitioner has highlighted Clause 11 of the said advertisement/employment notice (Annexure P-1), which provides for mode of selection and has submitted that as per the same, the candidates are required to take a Computer Based Test of 60 marks, comprising of 60 objective type multiple choice questions on English Composition and General Knowledge, each question carrying one mark. It is argued that the said clause further states that the number of candidates equivalent to fifteen times the advertised vacancies would be shortlisted for English Shorthand and Spreadsheet Tests and that the marks obtained by a candidate in the Computer Based Test would not be counted in determining the final merit. It is argued that the mode of appointment and qualification to the post of Stenographer Grade-III (English), even as per the said advertisement/employment notice is prescribed in the Chandigarh

General Conditions of Services) Rules, 1997 (for short 'Rules of 1997'), as amended from time to time and as per the said rules, there is no provision for a written test/computer based test to be conducted in the recruitment of the Stenographers. Learned counsel for the petitioner has referred to Rule 7(vi) of the Rules of 1997 to show that with respect to the mode of appointment to the post of Stenographer Grade III (English), the only requirement is that a candidate should possess a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and pass the test of typing at a speed of 80 w.p.m. in English Short-hand and 20 w.p.m. in Transcription of the same and is required to be proficient in computers (word processing and spread sheets). It is submitted that the petitioners are seeking to challenge the advertisement/employment notice (Annexure P-1) to the extent that a Computer Based Test has been prescribed in the same primarily on two counts. It is argued that once the entire mode of appointment and qualification to the post has been prescribed in the statutory rules, then, the same cannot be superseded by an administrative action by incorporating a Computer Based written test without the same having been provided in the said rules. It is submitted that the provision of the said written test in the advertisement/employment notice would in effect amount to an amendment of the rules by an administrative action which is impermissible in law. The second ground for challenge is that the stipulation requires the candidates to take the said Computer Based Test of 60 marks in which questions are based on English Composition and General Knowledge which has no nexus with the object sought to be achieved, inasmuch as, a person who is desirous of being appointed as Stenographer Grade-III (English) is only required to be a person who can type well and he/she is not required to be an expert in English Language or have a high level of General

Knowledge. It is submitted that it is a matter of settled law that the advertisement/employment notice cannot be given precedence over the statutory rules and it is, thus, prayed that the writ petitions be allowed and the clause in the advertisement/employment notice stipulating the candidates to take part in the Computer Based Written Test of 60 marks be struck down. It is submitted that by conducting the said test there is a possibility of the most proficient Stenographers of being excluded from the final zone of selection.

4. Learned counsel appearing for respondent No.2 has vehemently opposed both the writ petitions. It is submitted that it is settled law that the employer/recruitment agency has a right to provide for a written test/Computer Based test or any other criterion for the purpose of short-listing the candidates, more so, when the number of candidates, who have applied for a particular test, are very large as compared to the number of vacancies advertised. It is submitted that the stipulation in the advertisement requiring the candidates to appear for the Computer Based Written Test is for the purpose of short-listing and is in accordance with law. It is further submitted that in the present case, the number of applicants who have applied for the seven vacant posts of Stenographer Grade-III (English) are considerably large, inasmuch as, the respondents have received 2092 applications which are about 300 times the advertised posts and that in case no short-listing of the candidates is undertaken, it would be very lengthy, tedious and time consuming to take English Shorthand Test and the Transcription Test as well as Spread Sheet Test from all the 2092 applicants as the same would require giving proper dictation of passages to all the candidates with proper pronunciation and thus, the Computer Based Written Test of 60 marks which is based on rational criteria, would help in short-

listing 105 candidates i.e. candidates 15 times the advertised posts. It is submitted that since the post in question is of Stenographer Grade-III (English), the candidates applying for the posts must have a reasonably good command over the English language and thus, the requirement of having a Computer Based Test containing 60 objective type questions based on English Composition and General Knowledge has a reasonable nexus to the object sought to be achieved i.e., short-listing the candidates whose understanding of English Language is reasonably good before the cumbersome process of dictation and typing and spreadsheet examination is conducted. It is submitted that the candidates are also required to have a certain level of general awareness and thus, the decision to provide for the Computer Based Test containing multiple type choice question based on English Composition and General Knowledge cannot be stated to be either irrational or arbitrary or having no nexus with the object sought to be achieved. It is contended that no candidate has been discriminated against as all the candidates would be required to appear in the said Computer Based Test. It is further submitted that the Hon'ble Supreme Court of India as well as various other High Courts, while recruiting candidates to the post of Stenographer, Personal Assistant/Senior Personal Assistant also undertook short-listed candidates on the basis of a similar Computer Based Test, although, the same was not prescribed in the rules for the said posts and the requirement of the said test had been provided in the respective advertisement/employment notice and the said test also provided for multiple choice objective type questions based on General Knowledge and English Composition as has been done in the present case. In support of his argument, learned counsel for respondent No.2 has referred to Annexure R-

General of the Hon'ble Supreme Court inviting online applications for preparation of two separate panels for filling up 35 and 23 vacancies for the post of Senior Personal Assistant and Personal Assistant and even in the said advertisement with respect to selection to the post of Personal Assistant, a written test of duration of 1 hour 45 minutes, which would be an objective type question paper with multiple choice answers containing 100 questions has been prescribed and out of the said 100 questions, 50 questions are based on General English, 25 questions on General Aptitude and 25 questions on General Knowledge. It is further provided in the said advertisement that the candidates would first be subjected to Objective Type Written Test and Computer Knowledge Test and only the candidates who qualify both the objective type tests would be called for the skill test in stenography and typing speed test on a Computer and that the candidates who qualify in all the tests would then be called for the interview. Learned counsel for respondent No.2 has further referred to the schedule appended with the said advertisement which provides that the basic qualifications for being appointed to the post of Personal Assistant is degree from a recognised university and proficiency in English shorthand with a speed of 100 w.p.m. alongwith a working knowledge of computer operations with a speed of 40 w.p.m. and thus, it is apparent that there is no mandate for a candidate to pass an Objective Type Question paper, yet, in the advertisement issued by the Registrar of the Hon'ble Supreme Court of India, the said test has been prescribed. It is stated that the procedure adopted by the respondents in the present case is akin to the procedure adopted by the Hon'ble Supreme Court. Learned counsel for respondent No.2 has further highlighted that even the High Court of Chhattisgarh has prescribed a written test and skill test for recruitment to the post of Stenographer and even the said test consists of

questions based on English Language, Current Affairs and Reasoning and other aspects and the said written test is not prescribed in the rules governing the appointment to the said post of Stenographer as the requirement as per the rules is that the candidate is only required to have completed graduation from a recognised university.

5. It is stated that even the High Court of Telangana has provided for an online Computer Based Examination for being appointed to the post of Stenographer Grade-III (page 134 of the paper-book). Further reference has been made to page 140 of the paperbook to show that even the office of the District and Sessions Judge (Headquarters) Tis Hazari Courts, Delhi have mandated a written test, based on English Grammar, General Knowledge, Quantitative Aptitude and reasoning, which has to be passed by a candidate desirous of being appointed to the post of Stenographer Grade-III. Learned counsel for respondent No.2 has referred to Clause-7 of the impugned advertisement to highlight the fact that the decision of the Central Recruitment Committee in all matters relating to acceptance and rejection of an application, criteria of selection shall be final and binding on the applicants and it is open to the Central Recruitment Committee to shortlist candidates at any stage of the recruitment process on the basis of some criterion and that in the present case, the decision requiring the candidates to appear in the Computer Based test, has been taken by the said committee. It is submitted that the said Clause 7 of the advertisement/employment notice is not under challenge. Learned counsel for respondent No.2 has further submitted that the pleas raised by the petitioners are misconceived and the same is also apparent from the fact that although, there are 2092 applications which have been received against 7 vacancies, but only 26 persons have chosen to challenge the impugned Clause in the advertisement and thus,

majority of the candidates have not questioned the same. It is further submitted that it has been repeatedly held by the Hon'ble Supreme Court in various judgments that a method of short listing can be validly adopted by the employer/the recruitment agency and even if there is no rule providing for short listing, then also the said procedure can be resorted to if there are a large number of candidates who have applied to a particular post and it is not possible for the authorities to conduct typing test/spread sheet test for each and every candidate. In support of his arguments, learned counsel for respondent No.2 has relied upon the judgments of Hon'ble Supreme Court of India in case titled as "**B. Ramakichenin @ Balagandhi Vs. Union of India and others**", *reported as 2008(1) SCC 362* and in case titled as "**M.P. Public Service Commission Vs. Navnit Kumar Potdar and another**", *reported as 1994(6) SCC 293*. It is further submitted that it has also been repeatedly held by the Hon'ble Supreme Court that an administrative decision taken should not be interfered with in a routine manner and that the Court is not to act as a Court of appeal over such decisions. It is submitted that the short-listing which is being done in the present case is in accordance with settled law and the criteria adopted for the same has a reasonable nexus with the objective sought to be achieved and the same is equal for all the candidates.

6. Learned counsel appearing for respondent No.1 has also prayed for dismissal of both the writ petitions and has adopted the arguments raised by learned counsel respondent No.2 and has further reiterated that it is open to the employer/recruitment agency to short-list candidates and also stipulate a written test to be cleared by the candidates, more so, when the number of candidates are almost 300 times the number of posts advertised. It is submitted that in the present case, even as per the advertisement, 105

candidates would be called for the typing test and the spread sheet test after the written objective type examination and the same would also be 15 times the number of vacancies which have been advertised and thus, the respondent authorities would be able to choose the best candidates for being appointed to the post of Stenographer who, apart from possessing essential qualifications and having passed the typing test would, also be a person who would have a reasonable understanding of the English Language and have general awareness.

7. This Court has heard learned counsel for the parties and has perused the paper-book.

8. Advertisement No.33S/SSSC/2023 dated 05.05.2023, issued by the Society for Centralized Recruitment of Staff in subordinate Courts under the High Court of Punjab and Haryana, Chandigarh, on behalf of the District and Sessions Judge in the State of UT, Chandigarh calling for applications from eligible candidates for filling up 7 vacant posts of Stenographer Grade-III of direct quota, has been annexed alongwith the present writ petition as Annexure P-1. Clause 11 of the said advertisement has been challenged by the petitioners in both the writ petitions and the said clause is reproduced herein below: -

“11. MODE OF SELECTION:-

The Candidate shall have to take Computer Based Test of 60 marks, comprising of 60 objective type multiple choice questions on English Composition and General Knowledge. Each question will carry 1 mark with no negative marking and test will be of 1 hour duration. The merit of Computer Based Test shall be prepared on the basis of normalized marks (refer to page No. 5 for details on normalization of marks) in case the said test is held in multiple shifts and candidates equivalent to fifteen times of the advertised vacancies (in order of merit) would be shortlisted for English Shorthand and Spreadsheet Tests. If two or more candidates are having equal marks to the last shortlisted candidate called for English

Shorthand and Spreadsheet Tests, then all such candidates will also be called for English Shorthand and Spreadsheet Tests. It is clarified that mere participation in Computer Based Test will not give any right to the candidate to participate in English Shorthand and Spreadsheet Tests. Further, it is clarified that the marks obtained by a candidate in Computer Based Test will not be counted in determining the final merit.

The candidates shortlisted on the basis of Computer Based Test shall be required to take the following tests:

- 1. **English Shorthand & Transcription Test** - The candidates shall take down dictation at the speed of 80 w.p.m. in English Shorthand and then transcribe the same on the computer at the speed of 20 w.p.m. No candidate shall be considered to have qualified the test, if he/she commits more than 8% mistakes.*
- 2. **Spreadsheet Test**- This test shall be only of qualifying nature, of 10 marks and of 10 minutes duration. To qualify Spreadsheet Test, a candidate shall have to secure 40% or more i.e. 4 or more marks.*

The number of candidates as decided by Hon'ble Central Recruitment Committee, who qualify the English Shorthand & Transcription Test and Spreadsheet 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 & Transcription Test only. Name of eligible candidate (s) higher in merit (i.e. those committing less mistakes) would be recommended for appointment as per the number of vacancies to be filled. In case, if two or more candidates have committed same no. of mistakes, then the candidate elder in age among the same scorers be kept higher in merit. Still further, in case, any such even scoring candidates are having the same date of birth, then they be placed alphabetically (A-Z) in the concerned merit list."

A perusal of the above would show that the candidates are required to take Computer Based Test of 60 marks, comprising of 60 objective type multiple choice questions which are to be based on English Composition and General Knowledge and the number of candidates equivalent to fifteen times the number of advertised vacancies would be

shortlisted for the English Shorthand and Spreadsheet Tests. It has further been stipulated that the marks obtained by a candidate in the Computer Based Test would not be counted while determining the final merit. It is the condition in the advertisement requiring the candidates to take the Computer Based Test of 60 marks, that the petitioners are aggrieved with and are seeking to challenge.

10. It is not in dispute that Rule 7(vi) of the Rules of 1997 governs the mode of appointment and qualification to the post of Stenographer Grade-III (English) and the said Rule is reproduced herein below: -

“7. Mode of Appointment and Qualifications to the Posts:

(vi) [Stenographer Grade III (English).- Appointment 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.”

A perusal of the above would show that essential qualifications for being appointed to the said post are a degree of Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and passing of a typing test at a speed of 80 w.p.m. in English Short-hand and 20 w.p.m. in Transcription of the same and also proficiency in computers (word processing and spread sheets).

9. Grievance raised by the petitioners to the effect that the Computer Based Test mentioned in the advertisement (Annexure P-1) supersedes and replaces the rules governing the appointment and qualification to the posts and that the stipulation providing for a Computer Based test has no nexus with the objective sought to be achieved and that

because of the said process, the best candidates would be excluded from the final zone of consideration, is misconceived and deserves to be rejected in view of the following factors: -

- (i) It is undisputed that the number of applicants, who have applied for the seven vacant posts of Stenographer Grade-III (English) are 2092, which is about 300 times the advertised vacancies. As per settled law, it is permissible for the respondent authorities to short-list the candidates when the number of candidates is much larger as compared to the advertised posts, more so, when the process of final selection is very lengthy as in the present case as the process of dictation and typing as well as spread-sheet examination involves giving proper dictation of passages to the candidates with proper pronunciation and completing the said process would consume a considerable amount of time and thus, the action of respondent authorities of introducing a Computer Based Test for short-listing the candidates cannot be faltered with. A perusal of the advertisement, which has been reproduced herein-above would show that the number of candidates equivalent to fifteen times the advertised vacancies (in order of merit) are to be shortlisted and thus, a sufficient number of candidates would fall in the final zone of consideration for being appointed to the post. It has been repeatedly held by the Hon'ble Supreme Court as well as other Courts that the process of short-listing can be validly adopted by the employer/selection body/recruitment agency and the same can be done even in case there is no rule providing for short-listing and the said process cannot be stated to have altered or changed the criteria prescribed in the rule, as the same is only a part of the selection

process. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in **M.P. Public Service Commission case (supra)**, the relevant portion of which is reproduced herein below: -

“3. xxx xxx xxx xxx In view of Section 8(3)(c) of the Act in the advertisement it was prescribed that the applicant should have practised as an advocate or a pleader for a total period of not less than five years. It appears that in view of the large number of applications received from the general category candidates against 4 posts, a decision was taken by the Commission to call for interview only 71 applicants, although 188 applicants were eligible, as per requirement of the advertisement. **Only those candidates were called for interview who had completed seven and half years of practice although in view of Section 8(3)(c), five years of practice as an advocate or a pleader in the Madhya Pradesh was the minimum requirement. According to the writ petitioners, as the statutory requirement under Section 8(3)(c) was only five years of practice as an advocate or a pleader, it was not open to the Commission to raise the said period up to seven and half years and to debar applicants who had applied for those posts and who fulfilled the statutory requirement prescribed under Section 8(3)(c) of the Act.**

4. The High Court allowed the said writ petitions taking the view that as the statutory qualifications in respect of the practice was only five years, raising the said period from five to seven and half years amounted to laying down a criterion in violation of the prescribed statutory criterion. A direction was given either to call all the applicants for interview who had completed 5 years of practice as required by Section 8(3)(c) of the Act or to screen the applicants through some test and thereafter to call only such applicants for interview who qualify at the said screening test.

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9. **In Kothari Committee's Report on the "Recruitment Policy and Selection Methods for the Civil Services Examination" it has also been pointed out in respect of interview where a written test is also held as follows:**

"The number of candidates to be called for interview, in order of the total marks in written papers, should not exceed, we think, twice the number of vacancies to be filled

In this background, it is all the more necessary to fix the limit of the applicants who should be called for interview where there is no written test, on some rational and objective basis **so that personality and**

merit of the persons who are called for interview are properly assessed and evaluated.

10. This Court in the case of State of Haryana v. Subash Chander Marawahal had to consider as to whether the appointments could have been offered only to those who had scored not less than 55% marks when Rule 8 which was under consideration, in that case, made candidates who had obtained 45% or more in competitive examination eligible for appointment. This Court held that Rule 8 was a step in the preparation of a list of eligible candidates with minimum qualifications who may be considered for appointment. The list is prepared in order of merit and the one higher in rank is deemed to be more meritorious than the one who is lower in the rank. There was nothing arbitrary in fixing the scoring of 55% for the purpose of selection although a candidate obtaining 45% was eligible to be appointed.

11. In the case of Ashok Kumar Yadva v. State of Haryana (1985) 4 SCC 417 it was said

"..... Only 11 to 12 candidates are called for interview in a day of 5 1/2 hours. It is obvious that in the circumstances, it would be impossible to carry out a satisfactory viva voce test if such a large unmanageable number of over 1300 candidates are to be interviewed. The interviews would then tend to be casual, superficial and sloppy and the assessment made at such interviews would not correctly reflect the true measure of the personality of the candidate."

12. On behalf of the respondents, it was pointed out that there is no presumption that an advocate having seven and half years of experience will be more suitable for the post of Presiding Officer of the Labour Courts than an advocate having only five years of experience because it all depends on the personal merit of the candidate concerned. It is true that it has been found that sometimes the persons with lesser years of experience and practice have proved to be better advocates and they excel in profession. The success in profession is not necessarily linked with the years of practice. But that may be an exception. Normally, it is presumed that with longer experience an advocate becomes more mature. In any case, this fixing the limit at seven and half years instead of five years of the practice for purpose of calling the interview cannot be said to be irrational, arbitrary having no nexus with the object to select the best amongst the applicants.

13. The High Court has taken the view that raising the period from five years to seven and half years' practice for purpose of calling

the candidates for interview amounted to changing the statutory criteria by an administrative decision. According to us, the High Court has not appreciated the true implication of the short-listing which does not amount to altering or changing of the criteria prescribed in the rule, but is only a part of the selection process.”

“xxx xxx xxx xxx xxx xx

A perusal of the above judgment would show that reference in the same was made to the Kothari Committee's Report on the "Recruitment Policy and Selection Methods for the Civil Services Examination", in which, it has been pointed out that in respect of interviews where a written test is also to be held, the number of candidates to be called for interview should not exceed twice the number of vacancies to be filled. Reference in the said judgment was made to the judgment of the Hon'ble Supreme Court in case titled as 'State of Haryana Vs. Subash Chander Marwahal', reported as (1974) 1 SCR 165, in which, it has been held that there was nothing arbitrary in fixing the score of 55% for the purpose of selection although a candidate obtaining 45% was eligible to be appointed as per the relevant rule. Reference has also been made in the said judgment to a judgment of the Hon'ble Supreme Court in the case of 'Ashok Kumar Yadav Vs. State of Haryana' reported as (1985) 4 SCC 417, in which, it has been observed that it would be impossible to carry out a satisfactory viva voce test where the number of candidates was very high, whereas, the number of posts were much lower. The Hon'ble Supreme Court, after considering the said judgments, had set aside the judgment of the High Court where the High Court had observed that raising the period from five years to seven and half years' practice for the purpose of calling candidates

for interview amounted to changing the statutory criteria by an administrative decision. It was held that the High Court had not appreciated the true implication of short-listing which does not amount to altering or changing the criteria prescribed in the rule, but is only a part of the selection process. In the said judgment, the Hon'ble Supreme Court upheld the action of the authorities whereby in order to short-list the candidates only those candidates were called for being appointed to the post of Presiding Officers of the Labour Courts, who had seven and half years of practice although as per Section 8(3)(c) of the M.P. Industrial Relations Act, 1960, which was the relevant provision, a person was required to have only five years of experience. The said judgment fully supports the case of the respondents. On the question of short-listing, it would also be relevant to take notice of the judgment of the Hon'ble Supreme Court in **B. Ramakichenin @ Balagandhi's** case (supra), the relevant portion of which, is reproduced as under:-

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14. It is well settled that the method of short-listing can be validly adopted by the Selection Body vide Madhya Pradesh Public Service Commission vs. Navnit Kumar Potdar and another (vide paras 6, 8, 9 and 13) and Govt. of A.P. v. P. Dilip Kumar.

15. Even if there is no rule providing for short-listing nor any mention of it in the advertisement calling for applications for the post, the Selection Body can resort to a short-listing procedure if there are a large number of eligible candidates who apply and it is not possible for the authority to interview all of them. For example, if for one or two posts there are more than 1000 applications received from eligible candidates, it may not be possible to interview all of them. In this situation, the procedure of short- listing can be resorted to by the Selection Body, even though there is no mention of short-listing in the rules or in the advertisement.

16. xxx xxx xxx xxx Thus the procedure of short-listing is only a practical via-media which has been followed by the courts in various

decisions since otherwise there may be great difficulties for the selecting and appointing authorities as they may not be able to interview hundreds and thousands of eligible candidates; (ii) If a prescribed method of short-listing has been mentioned in the rule or advertisement then that method alone has to be followed.

17. xxx xxx xxx xxx Ordinarily we would not have taken exception to this procedure since it is based on an objective criteria, **and ordinarily this Court does not interfere with administrative decisions vide Tata Cellular Vs. Union of India AIR 1996 SC 11. As observed in the said decision, the modern approach is for courts to observe restraint in administrative matters.**

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18. xxx xxx xxx xxx xxx **In other words, it was open to the UPSC to do short-listing by stating that it will call only those who have Ph.D. degree in Agriculture (although the essential degree was only M.Sc. degree in Agriculture). Similarly, the UPSC could have said that it would only call for interview those candidates who have, say, five years experience, although the essential requirement was only two years experience. However, experience after getting the M.Sc. degree cannot be said to be higher than the experience before getting the M.Sc degree. Also, the advertisement dated 23.5.1998 does not mention that two years experience must be after getting the M.Sc. degree.”**

A perusal of the above judgment would show that it had been held that the method of short-listing can be validly adopted by the Selection Body even if there is no rule providing for short-listing, more so, when there are a large number of candidates who apply and it is not possible for the authority to interview all of them. Reference in the said judgment was made to a judgment of Hon’ble Supreme Court passed in case titled as ‘**Tata Cellular v. Union of India, reported as (1994) 6 SCC 293** on the aspect that the Courts should observe the principle of restraint in interfering with administrative decisions. While deciding the matter, the Hon’ble Supreme Court had highlighted certain examples of short-listing and one such

example was where the essential degree required for a candidate to be eligible for being appointed was, MSc degree, but for the purpose of short listing, it was observed that it was open to the authorities to only call those persons who had PhD degree. The ratio of law laid down by the Hon'ble Supreme Court in the abovesaid case supports the pleas raised by the counsel for the respondent, although, in the above said case, the manner in which short listing of candidates was carried out by the authorities was set aside on the ground that the exercise undertaken by the authorities was contrary to the advertisement itself. The law laid down in the above said judgments makes it abundantly clear that it is open to the respondent authorities to short list candidates and to prescribe a test/condition for the said purpose, which is universally applicable to all the candidates when the number of candidates is higher as compared to the posts advertised, as has been done in the present case. No judgment to the contrary has been cited by the learned counsel for the petitioner.

- (ii) The Hon'ble Supreme Court as well as various High Courts have, while inviting applications for appointment to the post of Stenographer or similar posts, mandated the holding of a written test consisting of objective multiple choice questions based on General English and General Knowledge and other fields for the purpose of short-listing the candidates and the said requirement is over and above the essential qualifications. The practice adopted by the respondents in the present case is a standard practice adopted all over the country. The said facts are established from the documents annexed by the respondent No.2 with the written statement. Annexure R-2/1 (at page 84 of the paper-book) is an advertisement issued by the Registrar of

the Hon'ble Supreme Court, inviting applications from Indian Citizens who fulfill the essential qualifications and other eligibility conditions for the post of Senior Personal Assistant/Personal Assistant. A perusal of page 121 of the paper-book would show that for the post of Personal Assistant, the essential qualifications as prescribed was degree of a recognized University and proficiency in Shorthand English with the speed of 100 w.p.m. and working knowledge of computer operation with a speed of 40 w.p.m. By the said advertisement, for the selection to the post of Personal Assistant, a written test of objective type question paper with multiple choice answers containing 100 questions was introduced, although, passing of the said test was not listed in the essential qualifications. A perusal of page 86 of the paper-book, where the said clause has been incorporated would further show that the said multiple choice questions consisted of 50 General English questions, 25 General Aptitude questions based on logical reasoning and 25 General Knowledge questions. A perusal of page 87 of the paper-book would show that in the said Advertisement it was mentioned that the candidates would first be subjected to Objective Type Written Test and Computer Knowledge Test and the candidates who qualify both the objective type tests will be called for skill test in stenography and typing speed test on Computer and that the candidates who qualify in all the tests will then be called for interview. The said procedure was adopted for the purpose of short-listing the candidates. The requirement of the candidates to appear in the Computer Based test prescribed by the respondent authorities in the present case is akin to the requirement prescribed by the Hon'ble Supreme Court. Even the

High Court of Chhattisgarh had issued an advertisement dated 20.06.2023 (at page 126 of the paper-book) inviting applications for recruitment to the post of Stenographer and for the said post, the qualifications as prescribed were, graduation from a recognized university and passing of a shorthand examination and Typewriting Examination in English. In the advertisement, there was a mention of a written test and skill test for recruitment to the post of Stenographer and the examination was required to be conducted in two phases. Phase-1 being the written Test and phase-2, Skill Test. Phase-1 which was the written test consisted of 100 questions of multiple choices amounting to maximum 100 marks and the said questions were with respect to various languages etc., primarily English Language, Current Affairs and reasoning aptitude, which is similar to the requirement in the impugned advertisement. It had been submitted by the learned counsel for the respondents that the condition of passing the said test was over and above the conditions as prescribed in the rules and was for the purpose of short listing the candidates. Further, the High Court for the State of Telangana (Hyderabad), as is apparent from page 134 of the paperbook, had invited applications for the post of Stenographer Grade-III and even in the said advertisement as is apparent from page 138, in the method of recruitment, it was mentioned that online computer based examination would be conducted and the question paper of the computer based examination was to be an objective type with multiple choice answers for 50 marks and the said test was a qualifying test and only those candidates who qualify the same would be further considered, similar to the present case. The respondents have also annexed an advertisement issued by

the office of the District & Sessions Judge, Tis Hazari Courts, Delhi (page 140 of the paper-book) for inviting the applications for the post of Stenographer Grade-II, in which also, as per the mode of selection, a written test comprising English Grammar, General Knowledge, Quantitative Aptitude and reasoning, has been prescribed and the said written test is akin to the test prescribed in the impugned advertisement. It had been further stipulated in the said advertisement that the short-listed candidates after the written test would be called to appear for shorthand and typing test and the candidates who qualify the shorthand and typing test will be called for Computer Skill Test and the Interview.

(iii) It is not in dispute that the total applications received in the present case for filling up the seven vacant posts of Stenographer Grade-III is 2092 and only 26 persons have filed the present two writ petitions and are aggrieved with the incorporation of the condition of Computer Based Test of 60 marks in the advertisement and thus, it is apparent that the majority of the candidates have not even questioned the same and are satisfied with the condition stipulated in the advertisement.

(iv) Clause 7 of the impugned advertisement/employment notice (Annexure P-1) is reproduced herein below: -

“7. 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.”***

A perusal of the above would show that with respect to various aspects including the mode/criteria for selection, it is the Centralized Recruitment Committee whose decision is final and binding on the applicants and the said committee is entitled to short-list the candidates at any stage of the recruitment process on the basis of some criterion and it is specifically mentioned that no inquiry or correspondence will be entertained in this regard. It is the case of the respondents that the criteria for short-listing in the present case has been formulated by the said committee. The said clause in the advertisement/employment notice has not been challenged by the petitioners. A perusal of the said clause would show that the criteria could have been formulated at any stage of the recruitment process. In the present case, the criteria has been formulated at the inception of the process and the same has been made part of the advertisement and thus, all the candidates were well aware of the same while applying to the post in question. It is the case of the respondents, as also noticed in para No.4 in the present judgment, that the post in question being of Stenographer Grade-III (English), the candidates applying for the same are required to have a reasonable understanding of English Language and a certain level of general awareness and thus, the requirement of the candidates having to pass the Computer Based Test, which would contain objective type multiple choice questions based on English Composition or General Knowledge has a reasonable nexus to the object sought to be achieved. As has been stated herein above, the said Computer Based Test has been made the basis for short-listing by the Hon'ble

Supreme Court as well as various High Courts and District Courts all over the country. The same test has been prescribed for all the candidates and no discrimination has been meted out to any candidates and it cannot be said that the said Computer Based Test is either illogical or arbitrary or has no nexus to the object sought to be achieved. Moreover, the respondent authorities as per the advertisement are seeking to call candidates 15 times the number of the advertised vacancies in the order of merit and thus, for seven posts as many as 105 candidates would fall in the zone of consideration, who would then be giving their English Shorthand and Spread Sheet Test. The respondents even after short-listing have chosen to call a large number of candidates from whom the best candidates can be selected as the said candidates after having been successful in the Computer Based Test would be required to pass the English Shorthand Test at a speed of 80 w.p.m. and also transcription of the same at a speed of 20 w.p.m. and thus, it cannot be said that the best candidates would not be considered for appointment. Moreover, no law has been cited on behalf of the petitioners to show that the requirement of the candidates to pass the Computer Based Test in the facts and circumstances of the present case would either be illegal, arbitrary or against law.

- (v) The authorities are the best judge to lay down a procedure for short-listing and the scope of judicial review in such a matter is limited and this Court cannot act as a Court of appeal over administrative decision, more so, when the action of the respondent authorities is neither irrational nor arbitrary.

11. In view of the above said facts and circumstances, this Court finds that the impugned advertisement/employment notice providing for a Computer Based Test is absolutely legal and in consonance with law and does not call for any interference and the present writ petitions being meritless, deserve to be dismissed and are accordingly dismissed.

July 28, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No