

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

102

CWP-19303-2012

Date of decision: 31.01.2023

NARESH KUMAR

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rau P.S. Girwar, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Raghav Goel, Advocate
for respondent No.3.

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for quashing the appointment letter issued to respondent No.3 as a Senior Scale Stenographer in the District Consumer Forum, Bathinda. He also prays for issuance of a writ in the nature of mandamus to permit him to continue on a temporary basis.

2. The relevant facts, in brief, are required to be noticed in order to understand the controversy involved.

3. The petitioner was recruited on 31.08.2009 as a Senior Scale Stenographer on contract of 89 days which was renewed from time to time. The respondent No.2 issued a letter granting regular appointment to the petitioner, however, the State Commission found that such appointment is illegal, hence, the service of the petitioner was dispensed with on 28.04.2010.

4. He filed CWP-7884-2010 in which the interim protection was granted. However, the writ petition was disposed of on 06.07.2011 with direction that the petitioner shall be allowed to continue on contract of 89 days basis till the regular appointment is made. Thereafter, a recruitment notice was issued on 23.02.2012 to fill up the post on the regular basis. As many as

three attempts were made by the concerned authority to select the best candidate. In the first written test, respondent No.3 committed 70 mistakes, however, the petitioner committed 225 mistakes. Pursuant to the fresh recruitment notice, another written test was held in which respondent No.3 committed 44 mistakes, whereas, the petitioner committed 106 mistakes. Again a fresh recruitment notice was issued, and in the third written test, respondent No.3 committed 34 mistakes, however, the petitioner committed 354 mistakes. As per the employer, the permissible limit of mistakes in the said examination was 32.

5. Keeping in view the aforesaid facts, respondent No.3 was given an appointment, however, the petitioner's services were dispensed with due to the marks so obtained and the mistakes committed.

6. The learned counsel representing the petitioner submits that respondent No.3 is not eligible as he committed 34 mistakes and the permissible limit is 32 mistakes. Admittedly, the petitioner has committed 354 mistakes which are nowhere close to the permissible limit. Respondent no.3 has continued to work from 2012, and his performance improved with every fresh test the authority conducted.

7. Keeping in view the aforesaid facts and discussion, no ground to issue the writ as prayed for by the petitioner, is made out.

8. Dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

January 31st, 2023

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(ANIL KSHETARPAL)
JUDGE

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