

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

(112)

Neutral Citation No.2023:PHHC:112004-DB

**LPA-1187-2023 (O&M)
Decided on : 25.08.2023**

Gulchaman

.....Appellant (s)

Versus

State of U.T. Chandigarh and another

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr. Gaurav Datta, Advocate for the appellant (s).

Mr. Arav Gupta, Advocate for respondent No.1-U.T.

Mr. Sourabh Goel, Advocate and
Ms. Shivani Sahni, Advocate for respondent No.2.

G.S. Sandhawalia, J.

Challenge in the present Letters Patent Appeal is the judgment passed in **CWP-11620-2023** filed by the appellant which was dismissed on 28.07.2023 by the learned Single Judge. Another writ petition bearing **CWP-11639-2023 ‘Shikha Shukla and others Vs. State of U.T. Chandigarh and another’** was also dismissed vide the impugned judgment. However, the appeal apparently has not been filed in the said case till now.

2. Consideration in the writ petition was to the requirement of the computer based test in the recruitment process to the post of Stenographer Grade-III vide Employment Notice No.33S/SSSC/CHD/2023 dated 05.05.2023 (Annexure P-1) issued by this Court through the Society for Centralized Recruitment of Staff in Subordinate Courts (SSSC)

which was repelled by the learned Single Judge vide a detailed judgment. The reasoning which weighed with the learned Single Judge was that the procedure which was being adopted was a short-listing procedure as the number of candidates are much larger as compared to the advertised posts and even after short-listing the number of candidates equivalent to fifteen times the advertised posts in order of merit, large number of candidates would fall in the zone of consideration for being appointed to the post. Reliance was placed upon the judgment of the Apex Court passed in **B. Ramakichenin @ Balagandhi Vs. Union of India and others, 2008(1) SCC 362** and **M.P. Public Service Commission Vs. Navnit Kumar Potdar and another, 1994(6) SCC 293** in support of the said reasoning. The learned Single Judge came to the conclusion that there was no attempt to change the statutory criteria by an administrative decision and that it was not possible for the authority to interview all the candidates while place reliance upon the judgment passed in '**Tata Cellular Vs. Union of India, (1994) 6 SCC 293** that the Court should observe the principle of restraint in interfering with administrative decisions. Reliance was placed upon the factual aspect that similar procedure was applied to across the country in the Hon'ble Supreme Court and all the other High Courts for similar recruitment process.

3. The factum that 2092 applications have been received against the 7 posts of Stenographer Grade-III and only 26 persons had challenged the criteria being aggrieved was another aspect which weighed with the learned Single Judge. It was also noticed that as per the advertisement there was clause 7 which provided that the mode of criteria for selection was to be final and binding on all the applicants which was a decision

taken by the Central Recruitment Committee and, thus, the short-listing had to be done on the criteria fixed. The clause provided that no inquiry or correspondence is to be entertained regarding the same and in the absence of the challenge to the same having been raised to the said clause, the petitioners were not liable to succeed. The learned Single Judge also went on to record that for the post in question the candidates are required to have a reasonable understanding of English language and general awareness and, therefore, the criteria of having the computer based test which would contain objective type multiple choice questions based on English Composition and General Knowledge has a reasonable nexus to the objective sought to be achieved. The respondents after having a pool of 15 times the number of vacancies which would come to 105 against the 7 advertised posts which would be a sufficient number who would then be required to pass the English Shorthand Test at a speed of 80 words per minute and also the transcription at a speed of 20 words per minute as per the statutory requirement. The recruiting authority being the best judge to lay down a procedure for short-listing and there would be a limited scope of judicial review in such matters and the Writ Court to not act as a Court of appeal over administrative decisions, when the action of the respondent authorities was neither irrational nor arbitrary, was another ground which weighed with the learned Single Judge while dismissing the writ petitions.

4. Counsel for the appellant has tried to convince us to the contrary unsuccessfully while referring to the Rule 7 (vi) of the Chandigarh Union Territory Subordinate Courts Establishment (Recruitment and General Conditions of Services) Rules, 1997 which provides the mode of selection to the post of Stenographer Grade-III, to

contend that the amendment in the said rules had to be done under Article 309 of the Constitution of India and the advertisement could not have been issued. The same was in direct conflict as it has provided different criteria for selection. The rule in question reads as under:-

“7 (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.”

5. The advertisement dated 05.05.2023 (Annexure P-1) had been issued for filling up of 7 vacancies of Stenographer Grade-III on behalf of the District & Sessions Judge in the State of U.T. Chandigarh, by way of direct recruitment. Under Clause 2 of the advertisement, the qualifications were duly laid down as per the statutory rules which are prescribed as a Bachelor of Arts or Bachelor of Science or equivalent thereto from a recognized university and having computer proficiency in computers (word processing and spread sheets). The special instruction provided that the decision of the Central Recruitment Committee would prevail regarding the criteria for selection and short-listing of the candidates which could be done at any stage on the basis of prescribed criteria. The mode of selection referred to the computer based test of 60 marks comprising of 60 objective type multiple choice questions, which were to be from English Composition and General Knowledge and was to

carry one mark each without any negative marking in the test which was of one hour duration. It was further provided that candidates equivalent to 15 times the number of advertised vacancies in order of merit would be shortlisted for English Shorthand and Spreadsheet Test, which was to be done as per the statutory rules as reproduced above. It was also clarified that the marks obtained in the computer test were not to be counted for determining the final merit and it was only for the purpose of short-listing. The relevant clauses read 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 have proficiency in Computers and Spread Sheets (Word processing and Spread Sheets).

The applicant should fulfill the condition of qualification on the last date of receipt of application i.e., 27.05.2023 (last date of online Registration).

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.

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10.DATE OF EXAMINATION:-

The Computer Based Test is likely to be conducted in the month of July/August, 2023. The exact date will be notified on the official website of S.S.S.C. (www.sssc.gov.in) and candidates are advised to regularly visit the website. However, the month of examination may be changed as per administrative exigencies.

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.”

6. The respondent No.2-SSSC in its written statement has justified the short-listing process by holding out that there is clear rational and objective criteria to shortlist the candidates while placing reliance upon various judgments and also hold out that candidates should have good command over the English language to work on the same post and therefore, the purpose of short-listing in the form of computer based test for the 60 multiple choice questions in English Composition and General Knowledge was a criteria which was applicable to one and all. It was also rightly justified that to put a large number of candidates through the rigors of dictation and typing as well as Spreadsheet tests would be a cumbersome process as it involves giving proper dictation of a passage to

candidates with proper pronunciation involving several dictations and dictators having similar pronunciation ability, ensuring same difficulty level of recited passage and the same would consume a considerable time in completing the process and, therefore, the criteria of short-listing was rational and objective. The domain of the employer to have a shorthand test was stressed upon and violation could not be found by prescribing the said criteria.

7. The argument raised as such that the statutory rule has been violated is without any basis. Clause 2 would go on to show that specifically the qualification has been mentioned which is in consonance with the rules which has been reproduced above and the proficiency in computer word processing and spreadsheet has been mentioned. The same would be a necessary criteria as and when the candidates complete their screening test. It is pertinent to notice that against the 7 vacancies as many as 2092 applications have been received and, therefore, the screening test has been prescribed and it cannot be said that it was done subsequently. The rules of the game had been laid down before the game had started at the time of issuance of advertisement. The criteria is applicable to one and all and, therefore, the claim that better persons having qualifications as per the rules would be left out on account of the fact that stress has made upon the computer based test is without any basis.

8. The purpose as such is to select the best persons who have the necessary speed in English shorthand as per the statutory recruitment rules. In order to achieve the merit the computer based test as prescribed by the authority of English Composition and General Knowledge would be necessary for the candidates who have applied for the post of

Stenographer Grade-III and the proficiency in the English shorthand test would be tested subsequently. But keeping in view the nature of job as such of the candidates proficiency in English language would be an essential feature for them to pick up the shorthand in the said language. The criteria thus only seeks to achieve the purpose of the rule and no violation as such can be found in prescribing the said criteria as the Clause 11 of the advertisement also specifies that the merit is not to be determined by counting marks in the computer based test and eventually the statutory rules would prevail. The learned Single Judge had already cited various relevant judgments of the Apex Court and, therefore, we do not wish to add to the case law on the said issue.

9. The argument that there was violation of Article 309 of the Constitution of India and statutory rules are not adhered to is without any basis in view of the above discussion and the fact that it is only a screening test to be conducted to sort the wheat from chaff. The criteria adopted as such cannot be said to be arbitrary or irrational in any manner. It is for the employer as such to adopt a criteria or parameter as how to make it practical to shortlist the candidates, keeping in view the large number of applications which have been received, even though there may be no mention of short-listing in the statutory rules. The argument raised that people with better talent who fulfill the statutory requirements would be left out is without any basis. The short-listing criteria is applicable to one and all and the relevance as such of prescribing the computer based test with the syllabus of English Composition and General Knowledge cannot be said alien to the purpose of selection of English Stenographer Grade-III. Therefore, in our considered opinion the learned Single Judge has

rightly come to the conclusion that it was not to sit as a Court of appeal over the administrative decisions of the Centralized Recruitment Committee as the said test would have a reasonable nexus to the objectives sought to be achieved, which was necessarily to cut out the persons who did not have the proficiency in the subject of English and for General Knowledge, which would be essential for the post in question of Stenographer Grade-III.

9. Resultantly, we do not find any ground to interfere in the well reasoned order of the learned Single Judge and the appeal is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

25.08.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No