

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-903 -2022 (O&M)
Reserved on: 11.12.2023
Pronounced on: 21.12.2023

Padam Singh and others
... Appellant

Versus

State of Haryana and others
... Respondents

LPA-906 -2022 (O&M)

Mohan Ram and others
... Appellant

Versus

State of Haryana and others
... Respondents

**CORAM: HON’BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MR.JUSTICE AMAN CHAUDHARY**

Present: Mr. Ravinder Malik (Ravi), Advocate for the appellant

Mr. Arpit Gaur, Advocate for
Mr. Aditya Yadav, Advocate for respondent No.3.

Mr. Deepak Balyan, Addl. AG, Haryana

AMAN CHAUDHARY, J.

1. The present Letters Patent Appeals have been filed challenging the common order dated 29.09.2022 passed by the learned Single Judge, vide which the writ petitions filed by the appellants were dismissed.
2. The invocation of proceedings before the writ Court were seeking mandamus to grant benefit of annual increment without insistence of passing the type test.
3. We are unable to countenance the submissions made on behalf of the appellants.

4. Undisputed fact being that promotions of the appellants took place in the years 2004 and 2010, containing a stipulation in their orders, that it was purely on adhoc basis, liable for reversion at any time without notice and the regular promotion would be considered after six months and that they shall have to qualify the required type test at the speed mentioned in Haryana Police Clerical (State Service Class-C) Service Rules, 1977 (hereinafter referred to as '1977 Rules') within a period of one year of taking over as Clerk.

5. The pith and substance of the argument being that non-passing of the type test should not entail a consequence of non-grant of annual increment, is misconceived inasmuch as, the condition incorporated to pass the test was in terms of the 1977 Rules, thus, it was incumbent upon them to have qualified the same. A request in this stead, though in view of this Court inappropriate, was made by the appellants to the respondent-authorities seeking exemption from it, which was rightly not accepted. The learned counsel has not been able to show that the judgment in **Nissar Ahmed vs. State of Haryana and another**, was wrongly distinguished by the learned Single Judge.

6. Notably, in the present case, the issue is not one for granting an opportunity for passing the test, which in fact should have been the prayer made, nor is it a case where they had been reverted or being reverted, rather it is for exemption therefrom, as in wake of not passing the same, they are not entitled for increments. The appellants are quite intransigent to not even make an endeavour to participate in the test, the knowledge of typing is essential for an employee, who would man the post of a Clerk, a condition incorporated in the order of promotion itself, which stems from the statutory rules, they having never assailed the same. The appellants cannot be permitted to approbate and reprobate.

7. The judgment of the learned Single Judge has considered the matter in the right perspective by categorically holding that the requisite condition of type test imposed is neither arbitrary nor unreasonable or unconstitutional. In this day and age of computerization they should be more than willing to acquire and hone that skill and be abreast with technology, so as to serve the public better. Some employees, having been granted an exemption as well, cannot enure to the appellants, as the impermissible, is unenforceable. The concept of equality enshrined in Article 14 of the Constitution of India does not envisage negative equalities as were the observations of Hon'ble the Supreme Court in **Kulwinder Pal Singh vs. State of Punjab**, (2016) 6 SCC 532.

8. On the anvil of the aforesaid, no illegality of perversity is found in the impugned judgment passed by the learned Single Judge. The present appeal being without merit, is as a result, dismissed.

9. Pending application(s), if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

21.12.2023
gsv/ashok

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO