



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 110 of 2023 (O&M)

Date of Decision: 22.05.2024

Meenakshi Garg @ Minakshi

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI, JUDGEPresent : Mr. Diwan S.Adlakha, Advocate and
Mr. Yuvraj Mandhan, Advocate, for the appellant.

Mr. Salil Sabhlok, Sr. Deputy Advocate General, Punjab.

Mr. Vikas Chatrath, Advocate,
Mr. Sachin Katoch, Advocate,
Mr. Dharamvir Singh, Advocate,
Mr. Rajbir Singh, Advocate, for respondent No. 2.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)**CM No. 345-LPA of 2023**

For the reasons mentioned in the application, delay of 81 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 110 of 2023 (O&M)

2. The present appeal tests the correctness of the order dated 22.09.2022 passed by the learned Single Judge in Civil Writ Petition No. 21957 of 2022 whereby the learned Single Judge has chosen not to interfere in the order of reversion of the writ petitioner from the post of Auction Recorder to the post of Clerk. The learned Single Judge found that there was a condition in the appointment letter as such that she had to pass the Punjabi language type test which she failed to do so which was held by the department in terms of the appointment letter dated 01.12.2011 (Annexure



3. On an earlier occasion, a Letters Patent Appeal No. 870 of 2022 was also filed by the appellant which was dismissed as withdrawn. The order dated 10.10.2022 passed in the said appeal reads as under:-

“Learned counsel for the appellant, at the outset, submits that he be permitted to withdraw the appeal as the appellant wishes to approach the learned Single Judge by moving an appropriate application as regards her concerns/grievances.

Dismissed as withdrawn.”

4. Learned Single Judge also dismissed the Review Application No. RA-CW-230-2022 filed by the writ petitioner on 19.12.2022 on the ground that under the garb of the review application, the writ petitioner was seeking re-hearing of the matter. Resultantly, the present appeal has been filed.

5. Learned counsel for the appellant-writ petitioner submitted that there is bar as such only regarding non-grant of annual increment on account of not passing the type test and there is no bar for next promotion. We are not inclined to consider the said argument. If on the lower post as such the appellant could not be granted the benefit of increment and the appointment order was conditional, we do not see any plausible reason how can she justify to claim promotion on the higher post with greater responsibility while she has not cleared the type test which is a pre-requisite as such and part of her appointment letter. The promotion order which has been cancelled as such by the authorities was also provisional by passing the resolution dated 09.03.2015 that till the type test is not passed by her, she will not be granted financial benefits attached to the post of Auction Recorder. The authorities in such circumstances passed the Office Order dated 12.09.2022 that the promotion as such would be violative of the Punjab Market Committees (Class III) Service Rules, 1989.

6. Appendix B (Rule 8) of the Punjab Market Committees (Class III) Service Rules, 1989 itself provides that for direct appointment, a candidate should have to pass the typewriting test in Punjabi language at a speed of thirty words per minute. Similarly, it further provides that for promotion to the post of Clerk amongst the Class-IV employees, the candidate should have an experience of working as such for a minimum period of five years and to be matriculate from the Education Board and pass the typewriting in Punjabi language at a speed of thirty words per minute.

7. Thus for both the categories as such for appointment on the post of Clerk, the requisite qualification is to pass the typewriting test in Punjabi language. In such circumstances, the promotion as such to the higher post of Auction Recorder would necessarily be only on the contingency of having passed the typing test. Resultantly, the reversion order passed by the authorities does not suffer from any infirmity. Accordingly, we do not find any merit in the appeal and the same stands dismissed. Pending applications, if any, also stand disposed of.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

22.05.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No