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

**CWP-10972-2021
Date of Decision: 07.11.2024**

Lalita Gulati

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ravinder Singh Randhawa, Advocate with
Ms. Tarranum Madan, Advocate,
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Prateek Mahajan, Advocate,
for respondents No.2 & 3.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to promote the petitioner to the post of Senior Scale Stenographer in compliance of the order dated 29.05.2009 (Annexure P-1) passed by respondent No.2. With a further prayer in the nature of *certiorari* for setting aside the order dated 13.07.2009 passed by Commissioner, Municipal Corporation, Faridabad whereby the promotion of the petitioner was withdrawn and also to set aside the order dated 03.06.2021 (Annexure P-3) passed by the Addl. Municipal Commissioner, Municipal Corporation, Faridabad qua petitioner wherein the petitioner has been asked to appear for the shorthand stenography test for her promotion to Senior Scale Stenographer.

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2. Learned counsel for the petitioner submitted that the petitioner is working as Junior Scale Stenographer in the respondent-Corporation and the prayer in the present petition is for consideration for grant of promotion to the post of Senior Scale Stenographer which has been denied to the petitioner. He further submitted that although as per the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service Rules, 1998, the eligibility condition for promotion to the post of Senior Scale Stenographer is English Shorthand at a speed of 100 words per minute and transcription thereof at a speed of 15 words per minute but the petitioner is entitled for the grant of relaxation under Rule 17 of the aforesaid Rules. He submitted that it is not in dispute that the petitioner has not been able to clear the aforesaid exam which is an eligibility condition for being promoted but the petitioner was entitled for relaxation as aforesaid. In this regard, he submitted that three other persons have been granted relaxation for the aforesaid post which is clear from Annexure P-6 and the name of the persons have also been mentioned as Smt. Ravi Bala, Sh. Inderjeet Makkar and Smt. Prabha Kataria and they also did not clear the aforesaid shorthand test but by granting the relaxation, they have been granted the aforesaid benefits. He further submitted that the respondents may be directed to grant relaxation to the petitioner as the same has been granted to the similarly situated persons as aforesaid.

3. On the other hand, Mr. Prateek Mahajan, learned counsel for respondents No.2 & 3 while referring to the Rules which have been annexed as Annexure R-6 submitted that it is a mandatory condition to clear the shorthand test for being promoted to the post of Senior Scale Stenographer



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but admittedly the petitioner has not cleared the aforesaid test. He further submitted that the mere fact that earlier some other persons have been granted relaxation would not mean that the petitioner can seek a writ in the nature of *mandamus* for directing the respondents to consider him for being promoted to the post of Senior Scale Stenographer. He also submitted that so far as the Municipal Corporation is concerned, they had rather recommended to the State of Haryana for considering the grant of relaxation but the State of Haryana vide Annexure R-2 has not granted the relaxation in this regard. He further submitted that the power has been vested with the State of Haryana and not with the Municipal Corporation and therefore, the present petition is liable to be dismissed.

4. I have heard the learned counsels for the parties.
5. It is a case where the petitioner is seeking writ in the nature of *mandamus* for directing the respondents to consider her for promotion to the post of Senior Scale Stenographer. It is an admitted position that the petitioner has not cleared the requisite qualification/test which is so provided in the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service Rules, 1998 (Annexure R-6) which is as under:-

“Annexure P-6

***HARYANA GOVT. GAZ. (EXTRA.) APRIL 27, 1999
(VYSK 7, 1921 SAKA)***

(Authorised English Translated)

***HARYANA GOVERNMENT
LOCAL GOVERNMENT DEPARTMENT
NOTIFICATION***

The 30th September, 1998



No. GSR 42/H.A./16/1994/S67/98.-- In exercise of the powers conferred by sub-section (2) of section 67 of the Haryana Municipal Corporation Act, 1994 (Haryana Act 16 of 1994), the Governor of Haryana hereby makes the following rules regulating the recruitment and conditions of service of the members appointed to the Haryana Municipal Corporation Employees (Recruitment and Conditions) Service, namely:--

PART I--GENERAL

xx	xx	xx	xx
47. Senior Scale Stenographer	(1) Graduate from a recognised University	For Promotion (1) English Shorthand speed of 100 words per minute and transcription of 15 words”	

6. The power of relaxation as contained in Rule 17 of the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service Rules, 1998 is also reproduced as under:-

“17. Power of relaxation- Where the Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.”

7. It is the case of the learned counsel for the petitioner that if relaxation could have been granted to three other persons then as to why the same could not have been granted to the petitioner. This Court is of the considered view that when there is a specific provision which provides for eligibility qualification for promotion to the post of Senior Scale Stenographer and admittedly the petitioner has not fulfilled the aforesaid



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qualification, then the petitioner cannot seek any kind of direction from the Court to exercise its power under Article 226 of the Constitution of India for seeking relaxation by the Government. Grant of relaxation is a prerogative and discretion of the Government in the specified cases which is so clear from the language used in Rule 17 as reproduced above. No such direction can be issued in contravention of the aforesaid Statutory Rules. So far as the argument of the learned counsel for the petitioner for seeking parity with the other persons, who have been granted relaxation and promoted is concerned, it is a settled law that no such parity in the negative can be claimed in this regard in violation of the Rules.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

07.11.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |