

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

265

CWP-19483-2018 (O&M)
Date of Decision :13.02.2024

Bir Singh**...Petitioner****Versus****State of Haryana and another****....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Virender Kumar, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, prayer of the petitioner is for quashing the impugned condition No.4 qua passing of State Eligibility Test in Computer Appreciation and Applications (SETC) as envisaged in Instructions dated 07.11.2013 (Annexure P/1), which condition was imposed upon the petitioner vide order dated 09.02.2016 (Annexure P/4) passed by the respondents by which, the petitioner was promoted from Group-D post to Group-C post of Clerk.

2. Learned counsel for the petitioner submits that said instructions dated 07.11.2013 (Annexure P/1) should not have been made applicable upon the petitioner as Class-IV employees are entitled for promotion to Class- III post without the said condition.

3. Learned counsel for the respondents on the other hand submits that petitioner was promoted to group C post of clerk with a clear indication

that he is to pass the State Eligibility Test in Computer Appreciation and Applications (SETC) as envisaged in instructions dated 07.11.2013, failing which, action will be taken against the petitioner and as, even after a period of 08 years, he has not passed the said State Eligibility Test in Computer Appreciation and Applications (SETC), the department is well within its right to take action against the petitioner.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It may be noticed that petitioner was promoted to the post of clerk with a clear condition that he has to pass State Eligibility Test in Computer Appreciation and Applications (SETC) as envisaged in instructions dated 07.11.2013 (Annexure P/1), which condition is must for Class-IV employees, who seeks promotion to the post of clerk and in case, the petitioner had any grievance qua the imposition of said condition in the order of promotion, he should have raised the said grievance at the time of his promotion so that respondents could have taken appropriate decision as to whether the petitioner needs to be promoted to the post of clerk or not.

6. The time has changed now. The work which was earlier being done through typewriters has now taken over by computers not only for typing purpose but for the purpose of data storage and other purpose so as to increase the work efficiency and productivity of a particular department and employees need to be fully prepared to discharge their duties once the computers have taken over the typewriters hence, the condition of passing of State Eligibility Test in Computer Appreciation and Applications (SETC) cannot be held to be bad.

P/1) was challenged but the same has already been upheld but prospectively that any appointment which is to be made for class-III post, employee concerned is required to pass State Eligibility Test in Computer Appreciation and Applications (SETC).

8. In the present petition, the claim of the petitioner is that he is only required to pass type test and not State Eligibility Test in Computer Appreciation and Applications (SETC) as envisaged under the rules (Annexure P-6). Once the typewriters are no longer available in the department, passing of type test is frivolous. In order to work efficiently as a clerk he should know how to operate computer and maintain efficiency, which is required keeping in view the change in time.

9. Today during the course of hearing, an option was given to the petitioner that time can be given to him to clear the State Eligibility Test in Computer Appreciation and Applications (SETC) but he refused to do so. This attitude of the petitioner shows that he only intends to get the salary of class-III post as without passing State Eligibility Test in Computer Appreciation and Applications (SETC) and the petitioner will not be able to perform the duties of a clerk without passing the said SETC hence, the same cannot be permitted.

10. Learned counsel for the petitioner argues that once under the rules governing the service only type test is required to be passed by a class-III employee, Instructions qua State Eligibility Test in Computer Appreciation and Applications (SETC) cannot be imposed upon the employee concerned.

11. Said instructions dated 07.11.2013 (Annexure P/1) have already been upheld but prospectively hence, the petitioner is under an

obligation to pass the State Eligibility Test in Computer Appreciation and Applications (SETC) which condition was imposed at the time when the petitioner was promoted from class-IV post to Class- III post of clerk and the said condition was also duly accepted by the petitioner.

12. Keeping in view the fact that petitioner has not passed the State Eligibility Test in Computer Appreciation and Applications (SETC), though, the respondents are well within their jurisdiction to take appropriate action qua the services of the petitioner but keeping in view the fact that petitioner is already working on the post of clerk for the last 08 years, it will be in the interest of justice, that one opportunity be given to the petitioner to clear the said State Eligibility Test in Computer Appreciation and Applications (SETC) before taking any action. Hence, respondents are directed to give one last opportunity to the petitioner to clear the State Eligibility Test in Computer Appreciation and Applications (SETC) and in case petitioner fails to avail said opportunity or fails to clear the said test, the respondents will be within their jurisdiction to pass an appropriate order qua the services of the petitioner.

13. Present petition stands disposed of in above terms.

February 13, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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