

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

(212)

CWP-23373-2017

Date of Decision : May 02, 2024

Sunil Kumar**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Parveen Moudgil, Advocate, for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that he is not being given extension in service on the ground that the petitioner who is working as Computer Operator has not passed the State Eligibility Test (SETC Test), which is mandatory keeping in view the appointments which have been made after the year 2013 when the said State Eligibility Test (SETC Test) was made mandatory.

2. Learned counsel for the petitioner argues that the petitioner has already been engaged prior to the said condition of passing of State Eligibility Test (SETC Test) hence, he is not liable to pass the said test so as to continue in service.

3. Learned State counsel submits that the petitioner is working on contract basis and as the petitioner in order to discharge the duties has to use computer, passing of the State Eligibility Test (SETC Test) is necessary

otherwise, there will be no purpose of the petitioner continuing with the job.

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

5. The petitioner is working on contract basis. The contract appointment has been offered so as to facilitate the smooth working of the respondent-Department. It is a conceded position that the petitioner, who is working as Computer Operator, has to make use of computer in order to discharge his official duties, hence, unless and until the petitioner knows how to operate a computer, he cannot discharge his duties at all. In the absence of any knowledge of computer or typing, the petitioner cannot discharge his duties efficiently even while working on contract basis.

6. With regard to the argument of learned counsel for the petitioner that the condition of passing State Eligibility Test (SETC Test) so as to continue in service will only be made applicable qua the appointment which has been made after the year 2013, the said argument cannot be accepted qua the contractual employees. It is only that in case, an employee who was regular appointee and had been promoted to a higher post when the condition of passing of State Eligibility Test (SETC Test) was not mandatory, the said employee will only get exemption from SETC Test and not the contractual employees whose services only have been engaged for the smooth discharge of the job in question.

7. At this stage, learned counsel for the petitioner submits that in case, the petitioner is given three months time, the petitioner will also pass the said test.

8. As the petitioner has already continued on the post for a period of 7 years under the interim order of the Court, three months time is granted to the petitioner to clear the State Eligibility Test (SETC Test). In case, the

petitioner clears the same, he be considered for extension of his service in case, the work of the post in question exist. In case, the petitioner is not able to clear the State Eligibility Test (SETC Test), the respondents will be within their jurisdiction to pass appropriate orders.

9. The petitioner is directed to clear the State Eligibility Test (SETC Test) by 31.08.2024.

10. The respondents should give as many chances feasible as to clear the same.

11. Till the passing of any appropriate order at the hands of the respondents, the petitioner shall be allowed to continue in service.

May 02, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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