IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-22266-2021 (O&M)
Date of decision: 12.08.2024

Mohd. Aasam and others

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present: Mr. Mazlish Khan, Advocate for the petitioners.

Mr. Dushyant Saharan, AAG, Haryana.

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AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed for quashing the order dated 22.09.2021, whereby the representation dated 12.05.2021 has been rejected.

2. Learned counsel for the petitioners solely relied on clause 3 (a) of the clarification dated 22.12.2020, to contend that they were not required to qualify the SETC, having been promoted prior to its introduction. The referred para reads thus:

> "(a) The condition for passing the SETC shall not be imposed upon the Clerks/ Steno-Typists, who were initially appointed/recruited as such on or before 07.11.2013."

3. Evidently, the impugned order is based on clause 3 (b) of the aforesaid clarification, as was applicable to the case of the petitioners, which reads thus:

> "(b) The Clerks/Steno-Typists initially appointed/recruited on or before 07.11.2013 shall pass the Type Test as prescribed in their Service Rules and they shall be allowed all benefits

> including pending increments, promotions on seniority-cum merit basis and ACP benefits."

4. The Instructions issued on 07.11.2013, appended as Annexure P-1, introduced a significant change by replacing the type test with State Eligibility Test of Computer Appreciation and Application (SETC). Under this new directive, Clerks who had been promoted from Group-D positions were to either fulfill the requirement of passing the type test as outlined in the existing Service Rules or opt to clear the SETC. Despite this flexibility, only petitioner No.2, qualified the type test and was thus granted the benefit of pay fixation, seniority and promotion from the said date, as stated in para no.3 of the reply dated 11.01.2024 filed by Deputy Commissioner, Nuh.

5. The Instructions dated 27.11.2007 also do not come to the rescue of the petitioners, as these relate to the exemption granted to adjusted regular retrenched employees who have crossed the age of 45 years, which the petitioners admittedly are not and the same read thus:

> "Sub: Regarding relaxation in service conditions for adjustment of retrenched employees of Boards/Corporations/Public Sector Undertakings etc.
>
> Sir,
>
> I am directed to invite your attention to Notification No.GSR-13/const./Art.309/2006 dated 21.06.2006 and No.GSR-2/const./Art.309/2007 dated 01.02.2007 on the subject noted above and to intimate that certain demands submitted by re-employed retrenched employees in various Government Departments/Boards/Corporations have been engaging the attention of the Government for some time past. After careful consideration it has been decided to accept the following demands to the extent indicated against each:-
>
> (i) Condition of type test:-
>
> <u>The adjusted regular retrenched employees who have crossed the age of 45 years, shall be exempted from passing the departmental type test wherever required.</u>
>
> (ii) Probation period:-
>
> It has been decided to relax the condition of probation period of all the adjusted regular retrenched employees.

> 2. I am to request you to implement the above decisions of the Government in letter and spirit."

6. On a cumulative consideration of the facts, the submission advanced on behalf of the petitioners that they were exempted from passing the type test by relying on a selective interpretation of the Instructions dated 22.12.2020 and 27.11.2007, is unfounded and does not hold up to scrutiny, rather in this age of computerisation, they ought to have been more than willing to acquire and hone typing skills and be abreast with technology, so as to serve the public better. Their reluctance to acquire these skills reflects a disregard for the evolving demands of their role, where proficiency in typing is no longer optional, but imperative.

7. The judgment relied upon by the petitioners is distinguishable on facts, inasmuch as the employee therein had been promoted to the post of Clerk after the age of 45 years, thus was granted relaxation from passing the type test in terms of Instructions dated 11.07.2014, however the operation thereof stands stayed in LPA-851-2020, filed by the State. Even otherwise the petitioners were promoted prior to attaining the said age.

8. As a fall out of the above discussion, the present petition is dismissed, being bereft of merit, except qua petitioner No.2, which is rendered infructuous.

(AMAN CHAUDHARY)
JUDGE

12.08.2024
ashok

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No