



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

**CWP-20013-2023 (O&M)
Date of Decision : 17-12-2024**

**GAURAV KUMAR ALIAS GAURAV KUMAR MUNJAL AND
OTHERS**

.....Petitioner(s)

VERSUS

SUBORDINATE SERVICES SELECTION BOARD

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anshul Baghla, Advocate
for the petitioners.

Ms. Shruti, AAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance being raised by the petitioners is that the petitioners competed for the post of Legal Clerk as advertised by the respondents vide Advertisement No.22 of 2022.

Learned counsel for the petitioner submits that as per the criteria mentioned for selection, a candidate was required to initially clear the written test and thereafter, a candidate was also required to clear the Punjabi as well as English language type test.

Learned counsel for the petitioners argues that the petitioners cleared the written test and were called for the type test in English and Punjabi language but unfortunately, the petitioners could not clear the same.

Learned counsel for the petitioner further argues that certain candidates, who could not appear in the written test for any reason, were given another chance to clear the same and the candidates who were absent on 29.08.2023, were again called for the type test on 08.09.2023 but, the said test was only restricted to the absentee and not the candidate who had failed in the same. The challenge in the present petition is that once, a chance is being given to the absentees to clear the written test, the petitioner should also be given an opportunity and under the interim orders of the Court, the petitioners have already appeared in the Punjabi and English language test which was conducted on 08.09.2023.

Learned counsel for the petitioner submits that keeping in view the result of the said type test, the claim of the petitioners be considered for the post of Clerk.

Learned counsel for the respondents on the other hand submits that the petitioners failed to clear the Punjabi and English Language Type Test hence, they cannot be granted another chance to clear the same though, learned counsel submits that the candidates, who could not appear in the type test at the first chance, were given another chance to clear.

Learned counsel for the respondents concedes that advertised posts remained vacant keeping in view the facts and circumstances of the present case though, the same have now been advertised again to be filled by a fresh recruit.

Learned counsel for the respondents further submits that out of the four petitioners, only two petitioners have cleared the Punjabi and English Language Type Test even in the subsequent chance and the candidates i.e. petitioners No.1 and 3 have again failed to clear the test hence, their candidature needs to be cancelled.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a conceded fact that all the advertised posts could not be filled up. It is also a conceded fact that certain candidates who could not appear in the type test which was held on 29.08.2023, were given another chance to clear the same on 08.09.2023. Once, a chance was given to the absentees, the petitioners who failed in the first attempt should have also been given a chance to appear. Any candidate who remains absent, is to be treated having not passed the same hence, absentee candidates are also at the same footing as the petitioner, who could not clear the type test in the first attempt.

Further, on the basis of the interim order, the petitioners have already appeared in the subsequent type test along with the absentees. Two of the petitioners have already cleared. The absentee candidates who have cleared the type test which was held on 08.09.2023, have already been considered eligible and selection as well as appointment as per their merit.

Once, the absentee candidates have been considered eligible to be appointed against the post of Clerk in pursuance to the Advertisement No.22 of 2022, the petitioner should also be treated eligible in the same

manner. Treating the petitioners ineligible only on the ground that they failed in the first attempt is not valid.

Further, the advertised posts are vacant and those posts have been advertised again. Once, the petitioners have already cleared the selection process and are available, ignoring them so as to advertise the said posts again, will be too harsh upon the petitioners.

At this stage, learned counsel for the respondent submits that the similar case has been dismissed by this Court while passing order in CWP No.20402 of 2023 titled ***“Sukhcharn Singh Vs. Subordinate Services Selection Board, Punjab”***, dated 02.12.2024.

It may be noticed that the facts in the said case were different. In the said case, the candidates never appeared in the subsequent type test which was held for absentees. Further, all the posts in their category in which they are competing had already been filled up. Therefore, under those circumstances, a candidate who could not appear in the subsequent type test, their claim was not admitted whereas in the present case, the petitioner Nos.2 and 4 though, under the orders of the Court, have appeared in the subsequent type test and have cleared the same and the advertised posts are also available which makes the difference hence, the petitioner Nos.2 and 4 are entitled to be considered eligible in the present petition.

Keeping in view the above, the petitioner Nos.2 Tamanna and petitioner No.4 Karamjeet Kaur, who have cleared the type test, be treated as eligible and be considered for appointment against the said advertised pos as per their merit.

Even if, the posts have been subsequently advertised, in case, both the petitioners are within the merit qua the advertised posts in their respective category and are found entitled for selection and appointment, two posts out of the subsequent advertisement be treated as withdrawn to accommodate the petitioner Nos.2 and 4.

Let the order be complied within a period of 8 weeks from the receipt of copy of this order.

Pending application, if any, also stands disposed of.

17-12-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
 Whether reportable: YES/NO