Court No. - 6

Case :- WRIT - A No. - 11690 of 2024

Petitioner :- Talha Khalid
Respondent :- State Of U.P. Thru. Addl. Chief Secy. Food Safety And Durg Administration Lko. And Another
Counsel for Petitioner :- Brijesh Kumar Singh
Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri, Brijesh Kumar Singh, learned counsel holding brief for Mr. B.K. Singh, learned counsel appearing for the petitioner and learned Chief Standing Counsel appearing for the State.

2. Present petition under Article 226 of the Constitution of India has been filed by the petitioner being aggrieved by the order dated 27.11.2024 passed by Commissioner, Food Safety and Drug Administration, opposite party no.2 whereby the petitioner has been demoted to Class IV post as he could not qualify the tying test conducted on 25.07.2024.

3. Second time typing test was conducted on 25.04.2024 and even second time, he could not qualify, and, therefore, it has been held that the petitioner is not qualified to hold Class III post. His appointment on the post of Junior Assistant has been cancelled. He has been directed to join on Class IV post.

4. The petitioner was appointed on 10.09.2021 under the provisions of The U.P. Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974 (hereinafter referred to as 'Rules, 1974') on the post of Junior Assistant. Appointment letter itself would disclose that the petitioner must have typing efficiency of 25 words per minutes. It appears that petitioner's typing efficiency was not assessed at the time of his appointment under Rules, 1974 on 10.09.2021, and he continued on the post and also got regularized. The petitioner continued on the post of Junior Assistant without testing his typing efficiency as required for the job. Typing tests were organized as mentioned above. In both the typing tests, the petitioner failed and, therefore, vide impugned order, he has been demoted to the Class IV post.

5. Learned Chief Standing Counsel appearing for the State submits that despite two tests, petitioner failed to achieve typing

speed of 25 words per minutes, therefore he was demoted to Class IV post.

6. Learned counsel appearing for the petitioner submits that typing test would have been conducted within a period of one year from the date of initial appointment, which was not conducted. The petitioner continued on the job since 2021-2024. As the petitioner was not assigned the work of typing, his proficiency of the typing got decreased, therefore, he failed in the typing tests. He further submits that if the petitioner is given a chance after a period of two months to prove his typing efficiency, he would succeed. If he qualifies in the third chance, his posting as Junior Assistant should be directed to continue. If he fails he would work on Class IV post.

7. Learned Chief Standing Counsel appearing for the State has opposed this prayer. However, he has left it to the discretion of the Court to pass appropriate order.

8. Considering the aforesaid, particularly the fact that the petitioner has worked for 3 years on Class III post before impugned order came to be passed on the ground that the petitioner does not have typing efficiency of 25 words per minutes, exercising equity jurisdiction, this Court directs opposite party No.2 to take a fresh typing test after a period of two months from today, and if the petitioner qualifies the typing test and it is found that the petitioner has typing proficiency of 25 words per minutes, he should be allowed to continue on the post of Junior Assistant. If the petitioner fails despite the last opportunity, which is granted by this Court in exercise of equity jurisdiction, the petitioner shall continue on Class IV post.

9. With the aforesaid direction/observation, the writ petition stands **disposed of.**

(Alok Mathur, J.)

Order Date :- 6.12.2024
Ravi/

Digitally signed by :-
RAVI SHANKAR SRIVASTAV
High Court of Judicature at Allahabad,
Lucknow Bench