



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

239-A

LPA No.851 of 2020 (O&M)

DATE OF DECISION : 12th MARCH, 2026

State of Haryana & Ors

.... Appellants

Versus

Dharampal

.... Respondent

**CORAM : HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

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Present : Mr. Saurabh Mohunta, Sr. DAG, Haryana.

Mr. S. P. Chahar, Advocate for respondent(s).

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ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal is by the State of Haryana challenging the judgment of the learned Single Judge whereby the writ petition filed by the respondent has been allowed and the direction has been issued to pay him arrears of annual increment from 2010 onwards along with interest.

2. Undisputedly, the respondent-Dharampal was appointed on temporary basis as Peon on 19.02.1982. Service of respondent-Dharmapal was regularized on 04.09.1984. The respondent was subsequently promoted as Clerk on 31.08.2009. Annual increments however were denied to him on the ground that he has not cleared the type test. The respondent ultimately retired on attaining the age of superannuation. On his claim for sanction of annual increment, the competent authority passed the impugned order dated 11.07.2016 (Annexure P-8) rejecting the claim on the ground that the respondent-petitioner had not passed the type test in Hindi or English as per the Government Instructions.



3. Learned Single Judge has gone through the statutory rules and has come to the conclusion that having been promoted, the authorities cannot withhold the benefit of annual increment on the ground that respondent-petitioner had not passed the type test. Service conditions of the respondent-petitioner was governed by the provisions of the Haryana Sports and Youth Welfare Department State (Group C) Service Rules, 1998. Rule 7 provides that no person shall be appointed to any post in the service unless he is in possession of the qualification and experience specified in column 3 of Appendix B in the case of direct recruitment and thus specified in column No.4 of the aforesaid Appendix in case of a person appointed other than by direct recruitment. Since the respondent was promoted as such, his qualification was to be as per column No.4 of Appendix B. The qualification in respect of Clerk has been mentioned in item No.21, as per which the qualification for appointment other than by direct recruitment is as under:

- “i. Matric/Higher Secondary or equivalent, 10+2 (Vocational);
- ii. Five years experience as Daftri, Jamadar, Peon, Chowkidar, Mali-cum-Chowkidar, Assistant Cook, Peon-cum-Mali, Sweeper and Groundman;
- iii. Shall have to qualify a departmental written test both in Hindi and English languages of the matriculation level to be held by the Head of the department in accordance with the instructions of the State Government contained in office circular letter No.5/2/97-GSI dated 4th July, 1997.”

4. It is not the case of the appellant-State that any specific test referable to the office circular dated 04.07.1997 was conducted which the respondent failed to qualify. Their case hinges upon the assertion that



respondent-petitioner had failed to pass the type test. The requirement of such test is pressed with reference to amended Rule 9A of the Haryana Sports and Youth Welfare Department State (Group C) Service (Amendment) Rules 2013 notified on 15.11.2013. Rule 9A (1) and (2) reads as under:

“9A.—(1) Typing test is substituted with the State Eligibility Test in Computer Appreciation and Applications (SETC) as a part of service requirement for Clerks, Steno-typists, Junior Scale Stenographers and Senior Scale Stenographers. The State Eligibility Test in Computer Appreciation and Applications (SETC) shall be a post requisite condition/qualification which all the newly recruited/appointed Clerks. Steno-typists, Junior Scale Stenographers and Senior Scale Stenographers in the Government Departments/Organizations shall have to qualify. The existing Clerks, who have been promoted from Group D and Restorer etc. who have not passed the typing test till date as required under the Service Rules shall have an option either to pass the typing test or the State Eligibility Test in Computer Appreciation and Applications (SETC). The Steno-typists, Junior Scale Stenographers and Senior Scale Stenographers shall also have to qualify stenography test as prescribed in the Service rules.

(2) The candidate shall have to qualify the State Eligibility Test in Computer Appreciation and Applications (SETC) within the probation period of two years, extendable by one year in case of direct recruit. The candidate appointed against the aforesaid categories of posts in Group C Shall not be entitled to earn any increment in his/her pay scale till he/she qualifies the said test, failing which the services of such employees shall be dispensed with. The persons who are promoted to the post of Clerk and Steno-



typist shall also qualify the State eligibility Test in Computer Appreciation and Applications (SETC) within the period of probation of one year extendable by one year, failing which he/she will be reverted back.”

5. It is with reference to the above Rule that the appellant-State argues that passing of type test would be mandatory failing which the annual increment would not accrue to the employee concerned.

6. We have heard counsel for the parties and carefully perused the material on record.

7. It is undisputed that respondent-petitioner was already promoted prior to 15.11.2013. Rule 9A(1) merely provided that existing Clerks, who have been promoted from Group D restorer etc. and who have not passed the typing test till date, as required under the Service Rules, shall have an option to pass the typing test or the State Eligibility Test in Computer Appreciation and Applications. This clause clearly referred to holding of the type test as contemplated under the service Rules. The Service Rules would refer to the applicable Service Rules for the respondent. In the facts of the case, the applicable Service Rules would be the Rules of 1998. We have already noticed that under the Rules of 1998 there is no provision for holding a type test. The claim of respondent-petitioner for increment could have been resisted by the State only if it was shown that, in terms of the applicable Service Rules of 1998, as well as the circular dated 04.07.1997, the respondent-petitioner had failed to clear the test meant for departmental promotion. It is not the appellant's case that any such test was either held or that there was any failure on the part of the respondent to clear such test. The exigency



conditioning the grant of promotion under the Rules is therefore not shown to arise in the facts of the case. So far as the notification of 15.11.2013, is concerned, it cannot be construed as supplementing the Rules of 1998 in such a way that the requirement of a type test becomes eligibility for promotion. In its absence the State cannot legally and lawfully withhold the benefit of annual increment relying upon Rules 9A(2). Learned Single Judge, therefore, has rightly interpreted the relevant Service Rules to grant the benefit to the respondent-petitioner.

8. The appeal filed by the State consequently lacks merits and is accordingly dismissed.

9. All the pending application(s), if any, shall stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

12th March, 2026
'raj'

(ROHIT KAPOOR)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>