

(2011) 02 DEL CK 0408
In the Delhi High Court
Case No : WP (C) No. 7362 of 2009

Amit Dagar and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 18-02-2011

Acts Referred:

Citation : (2011) 3 ILR Delhi 165

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Sanjay Ghose, for the Appellant; Anjana Gosain, for the Respondent

Final Decision : Dismissed

Judgement

Sudershan Kumar Misra, J.—The only ground of challenge in the matter is that pursuant to the order passed on 30.04.2007 by the Division Bench of this Court in W.P.(C) No. 19688-92/2004 and other connected matters, the petitioners were invited to participate in a typing test which was held on manual typewriters, whereas, according to the petitioners, some individuals were given the facility of giving their test on computer. The petitioners contend that, under the circumstances, the same opportunity should have been made available to them also. Admittedly, one of the terms of the aforesaid order of 30.04.2007 passed by the Division Bench, which was a consent order, was that the petitioners would be obliged to undertake a typing test. Pursuant to that, it is also admitted that along with other candidates, the petitioners were also called for a typing test and they were asked to bring their own typewriters. Obviously, therefore, the petitioners were well aware that they would be required to use a typewriter for the test. Having known that, the petitioners brought their own typewriters and sat for the test. In other words, they approbated the structure and system adopted by the respondents for conducting the test. It is only when they found themselves unsuccessful, they seek to challenge the decision to conduct the test by way of a manual typewriter.

2. Having already taken a chance and failed, it is not open to the petitioners to now seek to impugn this aspect of the test and ask for a fresh test to be conducted on a computer. Having participated with their eyes open in the test, it is now not open to them to disavow the same merely because they have not been successful.

3. The petitioners contentions that some individuals were permitted to take the test in question on a computer is denied by counsel for the respondent who clarifies that when the test in question was held, after due notice, all the candidates who took that test used a manual typewriter only.

4. The only thing is that two or three candidates were exempted from taking this test in terms of the compromise order of 30.04.2007 on the ground that they had already qualified in a typing test held much before the termination in question was impugned before the Division bench and which led to the consent order of 30.04.2007. At that point in time, the test taken by those individuals was on a computer. Be that as it may, to my mind, looking to the fact that admittedly, the same method was applied to all who were permitted to take the test with the petitioners, and the fact that the petitioners consciously approbated the methodology adopted for conducting this test and also duly participated in the same without reservation, this objection has no force and must be rejected.

5. The proposition that no relief can be granted to a petitioner who has participated in the examination with open eyes and with complete knowledge of all the relevant circumstances, and then chooses to file a petition once he realizes that he has not been selected in the examination, has been reiterated repeatedly by the Supreme Court, inter alia, in *Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others*, and again in *Chandra Prakash Tiwari and Others Vs. Shakuntala Shukla and Others*, wherein it is stated as follows:

The law seems to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not "palatable" to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process.

This proposition has been further reiterated in *Union of India (UOI) and Others Vs. S. Vinodh Kumar and Others*, which states as follows: "It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same."

6. The same ratio applies with full force to the facts of the present case.

7. No other grounds are raised. The writ petition is dismissed.