
(2015) 05 RAJ CK 0099
In the Rajasthan High Court
Case No : Civil Writ Petition No. 18171 of 2013

Pankaj Kumar Saini

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-05-2015

Acts Referred:

Citation : (2015) 05 RAJ CK 0099

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : H.K. Saini, for the Appellant; S.K. Gupta, AAG and Gaurav Tanwar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Alok Sharma, J.

1. The petitioner is aggrieved of the non-selection as Informatics Assistants owing to allegedly have been arbitrarily and unfairly evaluated in the type test in the course of the second phase of the evaluation after his having passed the written examination in the first phase.

2. The writ petition at hand relates to recruitment to the post of Informatics Assistants by the Informatics Technology and Information Department of the State of Rajasthan (hereinafter "the Department"). The recruitment process visualized evaluation of prospective candidate in two phases. The first was an on-line examination. Those successful were, in the second phase required to appear for a type test in Hindi and English on computer.

3. The petitioner having applied for the post in issue was admitted to the exam and cleared the first phase. He then appeared in the second phase but was declared unsuccessful in the said test. Hence this petition.

4. It has been submitted that the keyboard that was supplied to the petitioner for the Hindi type test was different from the one indicated in the department's

guidelines circulated to candidates resulting in the petitioner under-performing. It has been further submitted that even while the petitioner completed "23 rows" in the Hindi type test and "24 rows" in the English type test on the computer, he was only, as per the result declared, evaluated on the "17 rows" and "19 rows" as downloaded owing to a computer/software glitch. It has been submitted that in the circumstances, the petitioner's type test on computer both in Hindi and English be set aside and it be directed that his proficiency in typing be reevaluated in accordance with the Department's own guidelines with all necessary consequences.

5. Reply to the petition has been filed. Admitting that the petitioner had qualified the first phase, it has been submitted that the Department in its guidelines for the type test in the second phase clearly provided that the diagram of the keyboard circulated to prospective candidates was tentative and at the actual test the candidates were to check the keys as per Devlys 010 font as some keys may differ in Devlys 010 from the diagram in the guidelines. For practice a mock test was also provided to the candidates on the Department's website. Further it has been submitted that guidelines circulated provided that in the event of a candidate finding technical problems during the type test, it was to be so notified by use of a bell provided for in the examination software. The petitioner did not indicate any malfunction of the infrastructure (computer) or software for the type test both in Hindi and English at the time he wrote it. It has been submitted that the type test exam evaluation is wholly software based, without any manual intervention. No scope of any mischief exists with the signatures of the candidates taken by the invigilator on the attendance sheet against the candidates name, photo, scanned sign and roll number.

6. Mr. H.K. Saini, appearing for the petitioner has reiterated the averments in the writ petition in the course of arguments. He has submitted that this Court in SBCWP No. 17096/2013 and connected matters, decided on 06.08.2014 in respect of the same examination for selection of Informatics Assistant held that technical problems had arisen inter alia at the Shankara Institute of Technology Centre, (which was also the centre where-from the petitioner took his type test exam) owing to which 43 students who participated in the type test at the said centre were allowed to participate in a re-test for English and Hindi typing on computer. It has been submitted that it may similarly be directed in the petitioner's case.

7. Mr. S.K. Gupta, learned AAG appearing with Mr. Gaurav Tanwar, for the respondents has however submitted that SBCWP No. 17096/2013 turned on its own facts wholly different from that pleaded by the petitioner. He submitted that in the case of 43 candidates in SBCWP No. 17096/2013 there was material on record, also admitted by the Department, to establish that a technical glitch had occurred in the software in the course of the type test and was brought to the notice of the authority at the time of the test itself. He submitted that when the type test of the aforesaid 43 students started, they could not log in. This was

reported to the Invigilator. The candidates were advised to re-login and restart the test. However, despite the computer screen indicating a successful typing test, the type test screen showed no entry and zero line typing. In the circumstances, the Court held that the petitioners before it were not at all evaluated in the type test as their data was not saved for reasons not attributable to them. Mr. Gupta, AAG has however drawn the attention of this Court to the observation by the learned Single Judge in the case of Hemant Kumar Sharma (Supra) as under:

"This court is not inclined to uphold their contention that there was any defect in the software adopted by the respondents because on comparison of the result prepared through the software of Detha Infomedia Limited, BIPS and software of DoIT&C with the result and the same matched exactly with each other."

8. Relying heavily on the aforesaid observation of the learned Single Judge, the AAG has emphatically submitted that it does not lie in the mouth of the petitioner to attribute faulty software for his failure to pass the type test both in Hindi and English in the second phase of the selection process of Informatics Assistant. Mr. Gupta, the learned AAG has emphatically pointed out that during the type test examination, the petitioner lodged no complaint as to any difficulty in working on the software utilized for the purpose or the computer. None of the students in the room from where the petitioner took his type test exam also lodged any complaint. In fact about 278 candidates from the centre at Shankara Technology Centre successfully took the type test. The petitioner cannot be allowed to set up his case based on the wholly distinct and different case of the 43 other candidates at the Shankara Institute of Technology who had complained about the difficulty to log in to the Invigilator at the time of their type test exam. The petitioner was not a part of those aforesaid 43 students but was in a different room for the type test along with others. The type test exam of the petitioner and others was incident free.

9. Mr. Gupta has further submitted that the efficiency of the software used for the type test exam in issue and its unquestionable fairness has been upheld by this Court in SBCWP No. 19395/2013, Anil Yadav and Ors. v. State of Rajasthan and Ors. He has referred to the following findings and observations of the learned Single Judge:

"Contention that the key board of Hindi language that was actually found on the computers, was different than the one indicated in the guidelines, also cannot be accepted because the respondents have categorically clarified in the guidelines issued that the example of diagram given in the guidelines was tentative and that they were required to check the keys as per Devlys010 font and that some keys may be differ in Devlys010 from the example diagram given in the guidelines. Such guidelines were uploaded on the website. For practice of the candidates, a mock test was also provided on the website and a press note was also issued in this regard. The department clearly mentioned in the guidelines regarding key board font, evaluation criteria, definition of correct word and

direction for using typing software.

The respondents also constituted a committee under the chairmanship of Shri A.M. Deshpandey, Technical Director, to examine and inspect the software provided by the selected agency for type speed test to be held in the second phase of the Informatics Assistant Recruitment Examination - 2013. On examining the typing application, the Committee found total eight errors and the said eight errors were rectified by the selected agency. The respondents, on receiving complaints, also constituted another departmental committee consisting of one Technical Director and two System Analyst, which has again examined the typing application and found the application in consonance with the instructions of the respondent Department."

10. It has been prayed that consequently the writ petition be dismissed.

11. Heard. Considered.

12. This Court in the case of Anil Yadav (Supra) has put its seal of imprimatur on the software used for the type test exam in the second phase for the recruitment of Informatics Assistants by the Department. The petitioner cannot be seen to argue contrarily. The contention of the petitioner with regard to a keyboard different from the one indicated in the guidelines cannot be entertained as this Court in Anil Yadav and Ors (Supra) has negated such a contention on finding that such a variation was indicated in the guidelines itself and the candidate cautioned about it. Further the contention of the petitioner of being marked for only 17 lines in Hindi and 19 in English despite allegedly writing 23 and 24 respectively in the type test exam for reason of alleged malfunctioning software is unsustainable for the efficiency of the software being upheld by this Court in Anil Yadav (Supra).

13. Before concluding, it would be in place to recall that it has been reiterated by the Hon"ble Apex Court ad nauseam that a writ court concerns itself with the decision making process not the decision itself. From the facts on record nothing amiss can be found with the decision making process in which the petitioner was found not to have qualified/passed the type test in Hindi and English in the second phase of the recruitment of Informatics Assistants.

14. In the circumstances, I find the writ petition to be without force.

15. Dismissed.