

(2000) 10 DEL CK 0048

In the Delhi High Court

Case No : CWP No. 5915 of 2000 Civil Misc. 9093 of 2000

Parminder Pal Singh

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 19-10-2000

Acts Referred:

Citation : (2000) 55 DRJ 677

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Richa Kapoor, for the Appellant; Pinki Anand, for the Respondent

Final Decision : Disposed Off

Judgement

Manmohan Sarin, J.—Petitioner, who is a visually handicapped person, has filed the present writ petition, seeking, inter alia, a writ of mandamus, directing respondent No. 2 to conduct the examinations- written, typing and shorthand for the visually handicapped, to be conducted by the Staff Selection Board, by providing question papers of written test, typing and shorthand tests in bold or large print along with braille, both in Hindi and English.

2. The case of the petitioner, in short, is that petitioner is a visually handicapped person, falling within the category of (b)/(c), as specified in advertisement issued in the Employment News dated 15-21st July, 2000. The persons in these categories are not totally blind, i.e. those with total absence of sight, but are those who are visually handicapped with some degree of sight or vision. These persons, as per the petitioner, can, with the aid of lenses, etc., read bold print. Such persons, with the withdrawal of question papers in bold print, are now compelled to take the paper in braille. Thus, the candidates who are visually handicapped but not totally blind and eligible to appear, are deprived of taking examinations as they do not know braille.

3. At this stage, it would be appropriate to reproduce the criteria adopted by the Staff Selection Commission for the categorisation of the blind and visually

handicapped. Clause (3) of the advertisement reads as under:

Blind: (Visually handicapped):

Blind are those who satisfy one of the following conditions:

- (a) Total absence of sight;
- (b) Visual acuity not exceeding 6/60 or 20/200 (Snellen) in the better eye with correcting lenses;
- (c) Limitation of the field of vision subtending an angle of 20 degrees or worse.

Learned counsel for the petitioner submits that those falling in categories (b) and (c) above but not knowing braille would not be eligible to take the examination. Besides, it also puts to disadvantage visually handicapped persons who are not proficient in braille while taking the examination.

4. Learned counsel for the petitioner further submitted that in the past the authorities were holding the examination where question papers were made available in braille as well as in bold print. However, for the present examination, which is scheduled for recruitment of stenographers Grade "D" and Lower Division Clerks, the respondents have departed from the said practice and are giving the question paper only in braille.(sic)

5. Respondents have filed their counter affidavit, opposing the writ petition. It is stated that it is a conscious decision to hold the test only in braille, with a view to prevent malpractices and that this is based on the experience gained by the Commission in holding the last examination where question papers were given in braille as well as in bold print. The respondents have clarified that this is not a regular examination but special recruitment for visually handicapped to the post of lower division clerks and stenographers Grade "D" and is held at the instance of the Department of Personnel and Training when sufficient number of vacancies for the visually handicapped are available. The last such examination was held in 1997. The present examination contains a written examination in braille, English and Hindi, followed by a skill typing test for the post of lower division clerk and shorthand for stenographers Grade "D". The respondents claim that in the examination held in 1997, it was observed that many of the candidates in the partially blind category, i.e. categories (b) and (c), who opted for bold print for the typing and shorthand test, had done considerably well in comparison to candidates who were totally blind. The respondents claim that they have reasons to believe that those with a better vision than the standard prescribed for visually handicapped persons, procure and obtain requisite medical certificate through deceit and other questionable means. It was urged that the performance of some of these candidates was even better than the candidates with normal vision and some of them achieving speeds between 80 to 100 words per minute. Respondents, Therefore, claim that after considering these aspects, a conscious decision was taken to hold the test only in braille so that candidates with a better vision than the standard prescribed for visually handicapped

persons do not take advantage by taking the examination and securing the positions meant for the visually handicapped.

6. The respondents further submit that this assumes importance since in a regular examination for persons with normal vision, the number of candidates is 14 to 15 lakhs for few thousand vacancies while the total number of candidates in the blind and visually handicapped category are about 3000 only. Thus, a person, though not being a visually handicapped person, on the basis of a fake medical certificate is able to take the examination due to the availability of the question paper in bold print, can secure for himself an immense advantage. The plea, in short, Therefore, is that on the basis of false and dubious certificates being obtained by the candidates of being visually handicapped, they get advantage over those who are blind and are taking the examination in braille. It is also urged that braille is an internationally recognised language for the blind and all visually handicapped persons are expected to know it.

7. The question requiring consideration is that persons who are visually handicapped with impaired sight but are not blind failing in the allegory (a) of the advertisement, i.e. having total absence of sight, should they be treated as totally blind and required to take the examination only in braille? I find considerable merit in the contention of learned counsel for the petitioner that persons with impaired vision but being in a position to read with the aid of lenses or bold print should not be treated as totally blind and compelled to take the examination in braille. There can be no dispute with the proposition that persons who are disabled or are visually handicapped should be encouraged to lead normal activity and join the mainstream, without being made conscious of or reminded of their disability or handicap. It would not augur well for the mental well being of a person who has not lost his sight totally to be compelled to learn braille. Merely because the respondents suspect that certain persons obtain dubious and false, certificates of being visually handicapped and may take advantage by taking the examination if the question paper is in bold print, is not sufficient reason. to deprive those visually handicapped persons not knowing braille from taking the examination and, thus, depriving them of an opportunity to compete in an examination, where reservation has been made for them. It is for the respondents to devise ways and means to obviate or eliminate malpractices or to have further safeguards in that regard, by prescribing the authorities, in whom they have confidence, as being ones who should certify the candidate being visually handicapped. Even at a post qualifying stage, if there are any doubts about certain candidates being visually handicapped or not, who have been successful on the basis of false medical certificates, the same can be eliminated as a result of a subsequent medical examination by which the genuine vision and sight of the candidate can be ascertained by scientific means and equipment.

8. In the light of aforesaid facts, respondents are directed to re-consider their decision and examine the feasibility of holding a separate examination in respect

of these vacancies, for those who fall within the categories (b) and (c) of visually handicapped persons but do not possess the knowledge of braille, by providing them an opportunity of taking the examination with the question paper in bold print. The holding of such an examination would also provide an opportunity to all those visually handicapped person who may not have applied in response to the advertisement in question by the Staff Selection Commission since it required taking up the examination in braille only. The decision be taken within a month.

9. Learned counsel for the petitioner next urged that there should be stay of the examination which is scheduled for 22nd of October, 2000. The advertisement in this case was published in the Employment News for the week 15-21 July, 2000 and the last date for submitting the application was 11th August, 2000. Petitioner submitted his application, which required him to take the examination only in braille. Petitioner filed this writ petition on 28th September, 2000 and notice was issued by this Court, returnable on 10th of October, 2000. Counter affidavit was filed by the respondents on 16.10.2000. Petitioner himself approached the Court after nearly a month of having applied for the examination. It is stated at the bar that there are over 3000 candidates who are to take this examination at 115 different centers all over the country. In these circumstances, the prayer of the petitioner for a writ of mandamus to the respondents to provide the question paper in bold print along with braille, both in Hindi and English, cannot be acceded to and is rejected. Further, there is no merit in the prayer for deferring the examination scheduled for 22nd October, 2000 and the same is declined.

The writ petition stands disposed of with the aforesaid directions.