
(2018) 07 RAJ CK 0093

In the Rajasthan High Court

Case No : Special Appeal Writ No. 560, 11, 111, 113, 114, 118, 145 of 2018

Rahul Nagar @APPELLANT@Hash Registrar General, Rajasthan High Court Jodhpur

Date of Decision : 03-07-2018

Acts Referred:

Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986 — Rule 10(1)(b)

Citation : (2018) 07 RAJ CK 0093

Hon'ble Judges : MUNISHWAR NATH BHANDARI, J; DINESH CHANDRA SOMANI, J

Bench : Division Bench

Advocate : Satyavrat Sharma, Pranav Sharma, Shruti Sharma, Raghunandan Sharma, Kailash Sharma, D. K. Bhardwaj, A. K. Sharma, Shobhit Vyas

Final Decision : Dismissed

Judgement

By this bunch of appeals, a challenge has been made to the common order dated 21.11.2017, passed in the writ petitions for challenge to the selection and",

result of the post of Stenographer & Stenographer Grade-II (Hindi).,

Learned counsel for the appellants have raised two issues for our consideration for assailing the judgment of learned Single Judge. The first issue is about,

the discrepancy in the rules in regard to speed of Stenographer (Hindi). Under Rule 10 (1) (b) of the Rajasthan Subordinate Courts Ministerial,

Establishment Rules, 1986 (in short the "Rules of 1986"), required speed is 70 w.p.m. for Hindi Steno, whereas, the Schedule appended to the Rules",

of 1986 provides speed for dictation to be 80 w.p.m. Looking to the discrepancy in the rules, the selection and result is vitiated and may be quashed.",

Â The other issue raised by the appellants is about the benefit of margin of 15% mistakes. It is stated that Rules of 1986 does not provide for margin of,

mistakes though, it has been provided in Rajasthan High Court Staff Service Rules, 2002 (in short the "Rules of 2002"). Under the Rules of 2002, the benefit has been given for margin of 5% mistakes in the speed test of Stenography. The respondents have taken aforesaid analogy for the assessment of,

the result but instead of providing margin of 5% mistakes, it has been given 15%. It was to overcome from the discrepancy under the Rules. Rule 10 (1)",

(b) of the Rules of 1986 provides speed of 70 w.p.m. in Hindi shorthand, whereas, the Schedule provides it to be 80 w.p.m thus difference comes to 10",

w.p.m. hence, instead of giving margin of 5% mistakes, it was given for 15%.",

While extending the benefit of margin of 15% mistakes, it was not done in the manner provided under the Rules of 2002. The respondents applied a new",

formula to extend the margin of 15% mistakes for evaluation of the result. On account of the aforesaid, appellants speed has not been properly assessed.",

Both the issues were raised before the learned Single Judge. They were not accepted despite discrepancy in the rules apparent on the face of the record.,

So far as the benefit of margin of 15% mistakes is concerned, it should have been given in the manner provided under the Rules of 2002. In view of the",

above, the impugned order passed by the learned Single Judge may be set aside with acceptance of the appeals and writ petitions preferred by the",

appellants.,

Learned counsel for the respondents has opposed the appeals. It is submitted that the issue of discrepancy in the rules was not raised by the appellants,

while appearing in the test or even subsequently. The issue aforesaid was raised after declaration of result when the appellants remained unsuccessful. The,

appellants are estopped to raise the issue aforesaid as it was not raised any time before declaration of the result.,

It is also submitted that there is no discrepancy in the Rules. Rule 10 (1) (b) provides speed of 70 w.p.m. to qualify the selection. The Syllabus provides,

speed for dictation of 80 w.p.m. After the dictation at the speed of 80 w.p.m., the result has been assessed at the speed of 70 w.p.m. The issue is",

otherwise not available to the appellants, as no protest on it was made prior to declaration of result. A reference of judgments of Honâ??ble Apex Court",

in the case of Ashok Kumar & Ors. Vs. State of Bihar & Ors. reported in AIR 2016 SC 5069 and in the case of Ramesh Chandra Shah & Ors Vs. Anil,

Joshi & Ors. reported in AIR 2013 SC 1613 has been given. It is further submitted that issue has been dealt with by the learned Single Judge after,

considering the scheme of the Rules and criteria for evaluation of the marks.,

So far as the second issue is concerned, a decision was taken by the Committee to extend benefit of margin of mistakes. As per the decision, shorthand",

speed of the candidates was determined after providing margin of 15% mistakes. The learned Single Judge has quoted an example for it and found no,

illegality therein. The prayer is to dismiss the appeal.,

We have considered rival submissions of learned counsel for the parties and perused the record.,

An advertisement was issued for filling up the post of Stenographer & Stenographer Grade-II in District Courts and District Legal Services Authorities.,

The appellants applied for the post knowing it well that in the advertisement, the speed demanded for Stenographer (Hindi) is 80 w.p.m. They did not",

challenge the advertisement providing speed of 80 w.p.m. though under the Rule 10 (1) (b) of the Rules of 1986, the required speed is 70 w.p.m. for Hindi",

shorthand. For ready reference, Rule 10 (1) (b) of the Rules of 1986 is quoted hereinbelow :",

10. Academic Qualification:- (1) A candidate for direct recruitment to the Senior Personal Assistants/Personal Assistants/Stenographers Cadre,

(Subs.) :-,

(a) must have passed the Senior Secondary Examination in Arts or Science or Commerce of the Rajasthan Board of Secondary Education or an,

Examination equivalent thereto recognized by the Government or any Higher Examination. (Subs) (b) must have passed a [deleted] speed test:-,

(i) in the case of Stenographers either at 90 words per minute in English Shorthand,

or,

at 70 words per minute in Hindi Shorthand",

(ii) in case of of Personal Assistants either at 95 words per minute in English Shorthand and 8000 key depressions per hour in English Typing on computer,

or at 75 words per minute in Hindi Shorthand and 8000 key depressions per hour in Hindi Typing on computer Deleted [proviso],

The perusal of the Rules shows requirement of speed of 70 w.p.m. for Hindi shorthand. A reference of Schedule-I appended to Rules 1986 is also,

relevant. It provides speed of 80 w.p.m. for Hindi shorthand. The Schedule-I Part-II of Rules of 1986 is quoted hereunder :

PART-II FOR STENOGRAPHERS,

Competitive examination for the posts of Stenographers shall consist of the subject given in two alternative Groups A and B. A candidate shall be required, to pass the subject group of the post applied and required to pass Group C compulsorily:Group-A,

1. English Shorthand,

test 100 words per minute, 100 marks,

100,

marks,

The test shall consist of dictation at 100 words per minute.,

Group-B,

1. Hindi Shorthand,

test 100 words per minute, 100 marks,

marks,

Group-B,

1. Hindi Shorthand,

test 100 words per minute, 100 marks,

Marks,

The test shall consist of dictation at 80 words per minute.??,

Total words dictated 480, Words Transcribed 480

If no mistake:- $480/6 = 80$ w.p.m. (speed),

If 10 mistakes:-

$480 - 10 = 470$ now margin of 15% mistake will be added (15% of 10 mistakes = 1.5) $470 +$

$1.5 = 471.5$ shall be treated to be words transcribed.

$471.5/6 = 78.538$ w.p.m. (speed)",