

(2021) 03 DEL CK 0229

In the Delhi High Court

Case No : Civil Writ Petition No. 3155 Of 2021, Civil Miscellaneous No. 9579 Of 2021

Sandhya & Ors

APPELLANT

Vs

National Capital Territory Of Delhi & Anr

RESPONDENT

Date of Decision : 23-03-2021

Acts Referred:

Citation : (2021) 03 DEL CK 0229

Hon'ble Judges : V. Kameswar Rao, J

Bench : Single Bench

Advocate : Deepak Aggarwal, Anand Landge, Avnish Ahlawat, Tania Ahlawat, N.K. Singh, Palak Rohmetra

Final Decision : Dismissed

Judgement

V. Kameswar Rao, J

1. The present petition has been filed with the following prayers:

"In view of foregoing, it is most respectfully prayed that:

a) Issue Writ of mandamus and/or any other appropriate writ, order and/or direction in the nature thereof, thereby directing the Respondents to quash and set aside Notice dated 07.12.2020 issued by Respondent No.2 whereby the Petitioners and other similarly situated candidates were called for the Skill Test/ Typing Test for the post of Personal Assistant which was held from 29.12.2020 to 12.01.2021 in the various centers in the interest of justice; and

b) Issue Writ of mandamus and/or any other appropriate writ, order and/or direction in the nature thereof, thereby directing to the Respondents to re-conduct the Skill/Typing Test for the post of Personal Assistant which was held from 29.12.2020 to 12.01.2021 in the various centers in the interest of justice: and/or

c) Issue Writ of mandamus and/or any other appropriate writ, order and/or

direction in the nature thereof, thereby directing to quash and set aside over all result of skill test for the Post of Personal Assistant (PA) declared on 15.02.2021 by the Respondents in the interest of justice: and/or

d) any other order(s), which this Hon'ble High Court may deem fit and proper, under the facts and circumstances of the case, may also be passed in favour of the petitioner and against the Respondents."

2. It is noted from the petition that the Office of the District and Session Judge (HQ) had issued an advertisement and common instructions by way of public notice dated September 14, 2019 and invited applications for the recruitment to the vacant posts of Senior Personal Assistant, Personal Assistant, Junior Judicial Assistant and Data Entry Operator for the Office of the District and Session Judge (HQ) and Office of Principal Judge, Family Courts (HQ) New Delhi. It is stated in the said advertisement, the Office of the District and Session Judge (HQ) also issued common instructions to the candidates regarding educational qualification, important dates for the examination, skill test examination and general instructions. In this regard, I shall reproduce the relevant clauses of the said advertisement filed with the petition as Annexure-B. The relevant clauses read as under:

13. EDUCATIONAL QUALIFICATION: - The details regarding name of the post(s), post codes, Exam Mode & educational qualifications as per the Recruitment Rules provided are as under:

Sl. No.

Post Code

Exam Mode

Post

Educational Qualification

1.

A-1

Objective Test, Descriptive Test, Skill Test & Interview

Senior Personal Assistant

Graduate with speed of not less than 110 wpm in shorthand and 40 wpm in typewriting.

2.

A-2

Objective Test, Descriptive Test, Skill Test & Interview

Personal Assistant

Graduate with speed of not less than 100 words per minute and typing speed of 40 words per minute and having knowledge of Computer.

17. Scheme of examination:-

Tier-1:- The Objective & Descriptive Test for the post of Sr. Personal Assistant & Personal Assistant shall contain Questions on General English & Comprehension, General Knowledge (Including Current Affairs) and General Intelligence which would be qualifying in nature. The merit will be prepared on the basis of Descriptive Type Test.

Part

Exam Type

Subjects

Questions

Marks

Duration of

Exam.

Total Duration/Timing for General Candidates

Total Duration/Timing

for(OL/BL Candidates).

Part-I

Objective Type (MCQ)

General English &

Comprehension

50

50

90 Minutes

Duration:- 90 Minute

Duration:- 120 Minutes

Part- II

General Knowledge (including

Current Affair)

20

20

Part-III

General

Intelligence

20

20

Total

90

90

Part-IV

Descriptive Type

(English Language)

Essay (250

Words)

01

30

90 Minutes

Duration:- 90 Minutes

Duration:- 120 Minutes

Part-V

Grammar

25

25

Part-VI

Translation

20

20

Total

75

75

Tier-1:- The Objective Test for the post of Junior Judicial Assistant & Data Entry Operator shall contain Questions on General English & Comprehension, General Knowledge (Including Current Affairs) and General Intelligence.

Part

Exam Type

Subjects

Questions

Marks

Duration of Exam.

Total Duration/Timing for General Candidates

Total Duration/Timing for (OL/BL
Candidates).

Part-I

Objective Type

General English & Comprehension

60

60

120 Minutes

Duration:- 120 Minutes

Duration:- 160 Minutes

Part-II

General Knowledge (including Current
Affair)

30

30

Part-III

General

Intelligence

30

30

Total

120

120

NOTE-I: Each question will carry 01 (one) mark. There shall be 01 (one) mark for each correct answer. There shall be negative marking of 0.25 marks for each wrong answer.

NOTE-II: Paper will consist of Objective Type-Multiple choice questions only. The questions will be in English language only.

NOTE-III: Paper will be intended to test the General Aptitude/Suitability of the Candidates keeping in view the job requirements.

NOTE-IV: There is no provision of re-evaluation/re-checking of Answer Sheets. No request in this regard shall be entertained.

NOTE-V: It will online examination and, therefore, applicant is expected to know about the basic keys and input commands of keyboard and mouse.

Tier-II:-

Skill Test (Shorthand & Typing Test) for the posts of Sr. Personal Assistant and Personal Assistant

For being qualified in the MCQ test, the candidates (General Category) will have to score minimum of 50% marks i.e. 45 Marks (50% of 90 Marks) and candidates (under reserved category) will have to score minimum 45% marks i.e. 40.50 Marks (45% of 90 Marks).

The MCQ test shall be only qualifying in nature and the marks scored therein shall not be added in the final merit list.

The descriptive test answer sheets of only such candidates will be checked who are found to have qualified in accordance with the criteria mentioned at point no. (i) above.

The marks scored in the descriptive test shall be added in the final merit list.

For qualifying the descriptive test (General Category) candidates will have to score 50% marks i.e. 37.50 Marks (50% of 75 Marks) and for candidates (under reserved category) will have to score minimum of 45% marks i.e. 33.75 Marks (45% of 75 Marks) subject to upper limit of 25 times of the total vacancies available.

Candidate found qualified in the descriptive test in accordance with the criteria mentioned at point no. (ii) will be called for the skill tests for the post of Sr. Personal Assistant i.e. Shorthand test @ 110 w.p.m. and typing test @ 40 w.p.m.

and for the post of Personal Assistant Shorthand test @ 100 w.p.m. and typing test @ 40 w.p.m. This skill tests (Short hand test & Typing test) shall be however qualifying in nature and marks scored therein will not be added in the final merit list.

The passage of 550 words will be dictated in five (5) minutes' duration for the post of Sr. Personal Assistant and a passage of 500 words will be dictated in five (5) minutes' duration for the post of Personal Assistant.

Candidates will get only forty (40) minutes' duration to transcribe the dictated passage on computers. No extra time will be given for reading the passage.

Total number of mistakes permissible would be 4% of the total words dictated, i.e., twenty two (22) for the post of Sr. Personal Assistant and twenty (20) for the post of Personal Assistant.

Each candidate will be given opportunity to appear in two shorthand dictation and transcription tests and best of the two will be considered and taken into consideration for short-listing the candidates for Interview.

2. Skill Test (Typing Test) for the posts of Junior Judicial Assistant & Data Entry Operator

The candidates who scored 50% marks for General Category i.e. 60 Marks (50% of 120 Marks) and 45% marks for Reserved Category candidates i.e. 54 Marks (45% of 120 Marks) in the Preliminary MCQ Test or 25 times of the total vacancies (which ever will be minimum numbers) will be called for the skill test i.e. typing test @ 40 w.p.m. This skill test will be of qualifying in nature.

Tier-III:- Descriptive Test for the posts of Junior Judicial Assistant & Data Entry Operator

The candidates who qualify the Skill Test will be called for a "Descriptive Test" of English language (Total 100 Marks). It would consist of Essay (300 words=50 Marks), Grammar (30 Marks) and Translation (25 words=20 Marks). Minimum passing marks for General Category candidates will be 50% (i.e., 45 Marks out of 100 Marks). Duration of the test will be of 120 Minutes.

The Descriptive test will be conducted for the posts of Sr. Personal Assistant, Personal Assistant, Junior Judicial Assistant, & Data Entry Operator. However, District & Sessions Judge (HQ), Delhi reserves the right to modify or dispense with any stage of the selection process, if deemed appropriate especially in view of the number of applications received for any particular post and as may be permissible under Delhi District Court (Establishment) Rules, 2012.

Tier-IV:-

Interview of 10 Marks (for Maximum of ten times of the total vacancies) will be conducted for the post of Sr. Personal Assistant & Personal Assistant. The minimum passing marks for General Category candidates will be 04 marks (40%

of 10 marks) and for Reserved Category (including PWD) candidates will be 3.5 Marks (35% of 10 marks).

Whereas, Interview of 30 Marks (for Maximum of ten times of the total vacancies) will be conducted for the post of Junior Judicial Assistant. The minimum passing marks for General Category candidates will be 12 marks (40% of 30 marks) and for Reserved Category (including PWD) candidates will be 10 Marks (round of) (35% of 30 marks).

Whereas, Interview of 35 Marks (for Maximum of ten times of the total vacancies) will be conducted for the post of Data Entry Operator. The minimum passing marks for General Category candidates will be 14 marks (40% of 35 marks) and for Reserved Category (including PWD) candidates will be 12 marks (round off) (35% of 35 marks)."

3. The petitioners herein had applied for the post of Personal Assistant and the appropriate authority thereafter issued E-Admit Cards for appearing in the Objective and Descriptive Examination to be held on scheduled dates. The candidates including the petitioners herein after being declared qualified in the Objective and Descriptive Test were proceeded for the Tier-(ii) Examination Test i.e. Skill Test (shorthand and typing test) by issuing Admit Cards.

4. As per a Notification issued by respondent no. 2 on December 7, 2020, the candidates including the petitioners appeared for the Skill Test in two shifts from December 29, 2020 to January 12, 2021 (on specified dates) at various notified centres. It is the case of the petitioners that on the various dates during the said period spanning from December 12, 2020 to January 12, 2020, when exam supervisors and moderators started the five minutes' dictation passage, all the candidates including the petitioners commonly raised grievance regarding clarity in voice, improper sound system, interference of ambience sound, voice not being clear and pronunciation in the dictation which was in American accent. It is also stated that the candidates including the petitioners raised grievances and requested the exam supervisors and moderators for Indian accent dictation and pronunciation without interruption which request was out-rightly turned down and rejected by them without giving any opportunity for explanation. It is stated that these issues were faced by the candidates including the petitioners in the first shift as well as the second shift of the Skill Test Examination.

5. It is the case of the petitioners that since December 29, 2020 i.e. after the examination of Skill Test, several similarly situated candidates including the present petitioners raised similar or identical complaints before the respondents specifically requesting them to re-conduct the said Skill Test. Representations dated December 29, 2020, January 4, 2021, January 12, 2021 and January 21, 2021 (Annexures E, F, G & H) were made by candidates/petitioners to the respondent no. 2 reiterating to re-conduct the said Skill Test by pointing out to specific defects such as voice and pronunciation in the American accent dictation, improper sound system, interference ambience sound and voice not being clear.

It is stated that the said representations have not been considered by the respondents till date.

6. It is averred by the petitioners that without considering the detailed representations preferred by them and several other candidates, the respondents on February 15, 2021, declared the Final Result of the Skill Test for the Post of Personal Assistant as well as declared the final date of interview, as scheduled on March 13, 2021. It is submitted by the petitioners by relying upon result dated February 15, 2021, only 15% of the candidates are qualified for the interview.

7. The petitioners have relied upon a judgment of this Court in W.P. (C) No. 332 of 2013 titled Ms. Shaloo Batra Vs. High Court of Delhi, decided on February 01, 2013, wherein a similar issue was raised by the petitioner therein, which was negated. Reliance has also been placed on a judgment of the Punjab and Haryana High Court W.P. (C) No. 12594 of 2018 titled Narender Sharma and Ors. v. State of Haryana and Anr., decided on February 7, 2019.

8. It is stated by the petitioners and their counsel that petitioner Nos. 10 & 21 when appeared for the Skill Text Examination for the Post Senior Personal Assistant cleared the same with a shorthand speed of 110 words per minute (wpm) whereas when the same parties appeared for the Skill Test Examination for the Post of Personal Assistant, their shorthand speed was 100 wpm and failed in the same. This according to the petitioners is clearly indicative of the arbitrariness in the Skill Test Examinations held from December 29, 2020 to January 12, 2021.

9. Counter-Affidavit has been duly filed on behalf of the respondents. It is stated by the respondents that the present petition is only confined to the Post of Personal Assistant Examination and the educational qualification for the said Post is graduation with knowledge of stenography at 100 wpm and typing speed at 40 wpm. It is stated that as per the advertisement there were four different phases/ rounds of examination that were conducted being (i) 'On-line' objective type test/ MCQ test (ii) Descriptive Test (iii) Skill test viz. stenography Test @ 100 wpm and Qualifying Typing Test @ 40 wpm on computer (iv) Interview.

10. It is stated by the respondents that objective type/MCQ and Descriptive Test for the post of Personal Assistant was conducted on November 25, 2019. The Descriptive Test answer sheets of only such candidates were checked who have qualified in the objective test/MCQ test and the candidates who qualified the descriptive test were called for the skill test viz. stenography test @ 100 wpm and typing test @ 40 wpm. It is further stated that as per the advertisement passage of 500 words was dictated in five minutes' duration for the Post of Personal Assistant. The candidates thereafter were given forty minutes' duration to transcribe the dictated passage on the computer and no extra time was given to read the passage. The permissible limit of mistakes was 4% of the total words dictated, i.e. 20. Each candidate was given opportunity to appear in two shorthand dictations and transcriptions tests and the best of the two were

considered for short-listing the candidates for interview. The final merit of the successful candidates is prepared on the basis of marks obtained in aggregate of each candidate's performance in descriptive test and interview for the Post of Personal Assistant.

11. It is stated by the respondents that total 12,214 numbers of candidates along with the Petitioners had applied through 'on-line' applications for the post of Personal Assistant. Accordingly, an Objective Test/MCQ test and Descriptive Test of 90 marks and 75 marks respectively was successfully conducted on November 25, 2019. Out of total 12,214 candidates, 4522 candidates along with the petitioners were declared as qualified in the aforesaid 'Objective Test/MCQ Test & Descriptive Test' and thereafter they were called to appear in the 'Skill Test' which was successfully conducted on December 29 and 30, 2019 and January 08, 11 and 12, 2021 at the above-mentioned examination centres in absolutely transparent, fair and proficient manner. It is further stated that vide Minutes of Meeting of the Recruitment Committee dated February 15, 2021 total 1022 candidates have qualified the typing test @ 40 wpm on computer and accordingly answer sheets of stenography test of 1022 candidate were evaluated and out of 1022 candidates only 156 candidates have qualified the stenography test @ 100 wpm who have committed mistakes not more than 4 per cent. Thus, out of total 4522 candidates, 3029 candidates were present in the aforesaid skill test and 1493 candidates were absent. Out of the total of 3029 candidates, 156 numbers of candidates were declared as qualified in the aforesaid 'Skill Test' and the result of the same was declared on February 15, 2021 on the website of the Delhi Districts Courts. In this regard, the attention of this Court has been drawn to the minutes of the meeting of Recruitment Committee dated February 15, 2021 placed on record as Annexure-R2.

12. It is stated by the respondents that the entire process of conducting the Skill Test for the Post of Personal Assistant was conducted in an efficient, fair and professional manner under the supervision of the Recruitment Committee of Delhi District Courts. It is stated that the Members of the said Committee and Judicial Officers deputed as the court observers during the entire length of the Skill Test themselves heard the dictation of the passage and the same was found to be absolutely without any blemish and were also clearly audible without any background disturbance at the right pitch, Indian accent, tone and tenor. The various representations as mentioned in paragraph above were placed before the Recruitment Committee and the same was also shared with the outsourced agency to examine each and every representation and to submit their report. The Committee examined the responses/comments/reports submitted by the outsourced agency and on a comprehensive evaluation, the findings arrived at are the following:-

"a) The Committee records the fact that "Skill Test" viz. stenography test @ 100 wpm on computer along with typing test @ 40 wpm on computer was conducted on 29.12.2020, 30.12.2020, 08.01.2021, 11.01.2021 & 12.01.2021 at Elbrus

Assessment Center, Saket, New Delhi, Shivam On-line Education and Calibre Test Lab Pvt. Ltd. Patparganj Industrial Area, New Delhi and Bhagwati E-Testing, Sector-63 Noida, U.P. The Committee records the facts that each of the above-mentioned examination centers were visited and properly inspected by the Members of the Committee prior to the conduct of the skill test examination to assess the technical peripheral and application of software besides effectiveness of the sound/speaker system. Examination centers were selected on the basis of their salient infrastructure and basic facilities in the sphere of computer/laptop, power backup, proper networking, sound public address system, accessibility to the examination centre and after considering its track record of successfully conducting examinations in the past for the various Government or semi-government departments.

b) The Committee has examined the incident reports submitted by the Judicial Officers who were deputed at the examination centres as the court "Observers" to supervise and oversee the examination process, whenever there were any complaints by the candidates at the centres which clearly brings out that the skill tests were conducted at the three examination centres in a hassle free and fair manner. The Duty Roster of the Ld. Judges including the members of the Committee who were physically present and supervised the entire sessions.

c) The Committee Members have observed the fact that the complaints with regard to the voice of the speaker being of foreign accent was absolutely without any foundation. Further, the complaints with regard to "mishearing" of words was also not tenable since the members of the Committee and Ld. Judicial Officers deputed as the Observers themselves heard the dictation of the passage and the same was found to be absolutely without any blemish and were also clearly audible without any background disturbance with right kind of pitch. Merely because few of the words were difficult or, complex by its nature, cannot be a ground to afford any benefit to the candidates who are expected to be well versed in the English vocabulary. The Committee members are of the view that complaints regarding mishearing of words is probably on account of poor knowledge of English vocabulary resulting in the candidates not being able to understand few difficult words in the overall context of the passage dictated. The same audio file was played across all the scheduled centres in the specified shifts and the accent of the lady speaker was typically north Indian one, and there was no substance in the plea that the audio files were downloaded from Google or, that it was of foreign origin.

d) The Committee Members have also taken note of the fact that so far as the complaints with regard to technical glitches with the hardware, the candidates were called inside the examination centers about 02 hour prior to the commencement of the skill test/stenography test/typing test. The candidates were given sufficient time to get familiar with the Desktop/Laptop/Computer/Keyboards and Mouse, and during the mock test/trial test time whenever or whoever had any issue concerning the running of the computer or keyboards and

mouse; the same were replaced in no time with no loss of time to the candidates who encountered such glitches.

f) The Committee also records the fact that if during the course of the skill test on the above-mentioned dates there arose any issue concerning the running of the software or the Keyboards/mouse not functioning, each complaint was attended to immediately by replacing the keyboards/mouse, wherever necessary, and it was ensured that there was no loss of stipulated time given to the candidates to undergo the skill test/typing test for the post of Personal Assistant.

g) The Committee also records that fact that proper instructions regarding use of software, were communicated to the candidates. The committee also considered that fact that if any candidate raised alarm with regard to system issue or working, the candidate was shifted to another standby sytem/desktop; and as soon as the candidate shifted to another system and started the exam, the digital clock started from the time candidate left the earlier typing with the earlier typed material saved in the system. This did not occasion or result in any loss of time or shortage/deficiency in the stipulated time. In general, during the course of the exam, if there was any system breakdown, the candidate was provided another standby system in the same lab and the extra time was calculated based on the re-login time i.e. breakdown time-re-logging time. Hence if there was any system problem reported, then same was promptly attended and the candidate was shifted to another system and extra time was added automatically.

Further, the candidates were given two dummy dictions during the course of the preparatory phase of the skill test so as to make them familiar with the accent, speech, tone and pitch of the speaker before subjecting them to final test dictation. The schedule of the whole skill test has been drawn in such a manner so as to give a great degree of comfort level to the candidates and facilitate them to attempt their skill test in a hassle free manner.

In view of the aforesaid deliberations, the Committee does not find any merit in the representation/complaints. All the representations are found to be wrong and without any substance. The Committee is of the view that a feeble attempt is being made by some candidates by raising unnecessary complaints to derail the process after successful completion of the Skill examination. The Committee is fully satisfied that the entire examination process of the skill test for the post of Personal Assistant (PA) held on the mentioned dates was conducted in hassle free, fair, transparent, smooth, efficient and in a disciplined manner. Accordingly, all the above-mentioned representations as well as any other representations/complaints by the candidates on similar grounds are unanimously rejected."

13. It is stated by the respondents that the prayers as sought for in the present petition cannot be granted in view of the judgment of the Apex Court in *Madan Lal & Ors. v. State of J&K & Ors.*, 1995 (3) SCC 486, wherein it is inter-alia held that if a candidate takes a calculated chance and appears for the interview, then,

only because the result of the interview is not palatable to him, cannot turn around and subsequently contend that the process of interview was unfair. Similarly, reliance has also been placed on the Apex Court judgment in *Anupal Singh & Ors. v. State of Uttar Pradesh & Ors.*, 2020 (2) SCC 173, wherein the Apex Court inter-alia held that a person having consciously participated in the interview cannot turn around and challenge the selection process.

14. By relying upon *Dhananjay Malik & Ors. v. State of Uttaranchal and ors.*, 2008 (4) SCC 171, it is also submitted by the respondents that in the absence of any protest prior to participations or having established any illegality in the Skill Test, it is not permissible under the law, to be re-conducted. Moreover, it is also stated that complaints or, newspaper reports by themselves could not be considered to be adequate to confirm the allegations of the petitioners (Ref: *Ramchandra Murarilal Bhattad & Ors. v. State of Maharastra & Ors.*, 2007 (2) SCC 588).

15. Having heard the learned counsels for the parties and perused the record, a short question which arises for consideration is whether the Skill Test (shorthand and typing test) held for making appointments to the post of Personal Assistant between December 29, 2020 and January 12, 2021 needs to be quashed and a direction needs to be issued to the respondents to re-conduct the same.

16. The case of the petitioners is that in furtherance to the selection process, the respondents have conducted the Skill Test (shorthand and typing test) during the period mentioned above in three centres, i.e., Patparganj, Saket and NOIDA. The grievance of the petitioners is that on the Exam Supervisors and Moderators started the five minutes' dictation passage, all the candidates including the petitioners raised grievances regarding clarity in voice, improper sound system, interference of ambience sound, voice not being clear and pronunciation in the dictation being in American accent. A request was made for Indian accent dictation and pronunciation without interruption which was turned down. The counsel for the petitioners in support of his submissions has drawn my attention to the representations made by the petitioners / candidates to the respondents. The aforesaid representations were placed before the Recruitment Committee which also sought a report from the outsourced agency. The Committee examined the responses / comments submitted by the outsourced agency as well and on considering the same has arrived at a conclusion which I have reproduced above. The following is seen from the conclusion arrived at by the Committee, (i) members of the Committee and Judicial Officers who were deputed as Court Observers had heard the dictation of the passage and the same was found to be absolutely without any blemish. The same was audible without any disturbance, at the right pitch and with Indian accent; (ii) the centres were selected on the basis of their infrastructure and basic facilities in the sphere of computer / laptop, power back-up, proper networking and sound public address system etc.; (iii) the report submitted by the Judicial Officers who were appointed as Court Observers reveal that the Skill Test was conducted at the centres in hassle free

and in fair manner; and (iv) The foreign accent was absolutely without any foundation and the complaints of mishearing of words are also not tenable.

17. Merely few words were difficult or complex by its nature cannot be a ground to afford any benefit to the candidates who are expected to be well-versed in English vocabulary. The complaints regarding mishearing of words is probably on the ground of poor knowledge of the English vocabulary resulting in the candidates not understanding words in the overall passage of the dictation. The same audio was played across all the centres in specified shifts and the accent of the lady speaker was North Indian. Each candidate, as per the pattern, was given opportunity to appear in two shorthand dictations and transcription tests and the best of the two was considered for short-listing the candidates for interview. In fact, I note from the Recruitment Committee report that the candidates were given two dummy dictations during the course of the preparatory phase of the Skill Test, so as to make them familiar with the accent, speech, tone and pitch of the speaker before subjecting them to final test dictation.

18. The stand of the respondents has not been controverted by the petitioners by filing a rejoinder affidavit. Be that as it may, from the above it is noted that the grievance of the petitioners about glitches in audio, accent, mishearing has been considered by the Recruitment Committee threadbare and found that there was no defect in the conduct of the same. No doubt, the petitioners / candidates had made representations at the earliest opportunity, but that by itself shall not depict any deficiency / defects in the conduct of the Skill Test, more so in view of the conclusion arrived at by the Recruitment Committee by considering the report submitted by the observers and also by the outsourced agency. That apart, I note that 3029 candidates were called for Skill Test / Typing Test, which is a qualifying exam requiring a candidate to have a speed of 100 w.p.m. (Shorthand) and 40 w.p.m. (Typing) on computer. Around 156 candidates have qualified the Skill Test and are called for interview, as they have not committed more than 4% mistakes. Surely, those candidates, who are successful in the Skill Test / Typing Test, do not have any problem in comprehending the dictation and accent. The committee should be right in its conclusion that the issue of audio, mishearing, accent may be peculiar to some candidates, who may not be well-versed with the English vocabulary. I may also state here that during the course of hearing, I had directed the respondents to produce the audio file, which was played at the time of test. The same was produced and played in the Court and I found that the voice / audio and accent of the speaker had no deficiency / defect and each word was clearly deciphered / understood. There cannot be any defect in the conduct of the skill test.

19. On the asking of the Court, Mrs. Ahlawat has filed a sealed cover giving the break-up of the successful candidates in each of the centres, under the signatures of Branch, In-Charge, Recruitment Cell, Office of the Principal District & Sessions Judge, (HQs), Delhi.

20. This Court has opened the sealed cover, which contains a statement of centre

wise percentage of qualified candidates in Personal Assistant Skill Test, apart from the copy of reports submitted by the observers. I have perused the same and it is evident from the break-up that 2072, 1190 and 1260 candidates were to appear before the ELBRUS Assessment Centre, Saket, Bhagvati E-Testing centre (Noida) and Shivam Online Education (Patparganj Centre) respectively on various specified dates. However, a total of 694, 384 and 415 candidates were absent on various dates at the aforesaid three centres. Remaining 1378, 806 and 845 candidates appeared for Skill Test at the ELBRUS Assessment Centre, Saket, Bhagvati E-Testing (Noida Centre) and Shivam Online Education (Patparganj Centre) respectively. A total of 156 candidates qualified in both the Typing and Shorthand test components from the three centres with 44 from ELBRUS Assessment Centre, Saket, 60 from Bhagvati E-Testing centre (Noida) and 52 from Shivam Online Education (Patparganj Centre). It is noted from the statement that the centre wise percentage of qualified candidates in Personal Assistant Skill Test turn out to be 2.12 percentage at ELBRUS Assessment Centre, Saket; 5.04 percentage at Bhagvati E-Testing centre (Noida); and 4.13 percentage at Shivam Online Education (Patparganj Centre) out of the total candidates. No doubt, the statement reveals that the numbers of successful candidates are the least in Saket Centre, but the difference amongst the three centres is not so highly disproportionate to make me conclude, that the difference is because of the alleged glitches in the audio system or American accent.

21. In any case, the contention of the learned counsel for the petitioners falls within the realm of disputed facts, which cannot be gone into in writ proceedings.

22. Suffice to state, the reasoning given by the Committee is plausible one and the same needs to be accepted, more so, when the petitioners have not controverted the said stand. Moreover, the petitioners having failed in the Skill Test (shorthand and typing test) have not brought to the notice of the Court whether Skill Test can be directed to be re-conducted when such a procedure is not contemplated in the Recruitment Rules. This I say so, de-hors the finding of the Recruitment Committee that no illegality has taken place in the conduct of the Skill Test.

23. Having said that, the petitioners have relied upon the Judgment of the Division Bench of this Court, in Ms. Shaloo Batra & Ors., (supra), to which I was a party to contend that a re-test needs to be conducted as was decided by the Authorities in that matter. I may note here that the said judgment is of no help to the petitioners for the reasons that firstly, the decision to conduct the re-test was set aside by this Court on the ground that the Recruitment Rules does not permit so; secondly, no rule has been brought to my notice if the Skill Test / Typing Test held is illegal, then the Rule contemplates, a re-test can be conducted. In the absence of a Rule, surely no direction for conducting the Skill Test can be given; and thirdly, even otherwise no such direction can be given in view of the decision of the Recruitment Committee which clearly held that there

was no illegality in the conduct of the Skill Test. Reliance has also been placed by the learned Counsel for the petitioners on the Judgment of the Punjab and Haryana High Court in Narender Sharma (supra) to contend that the Court has given a direction to conduct the Skill Test / Typing Test afresh. I am afraid, the said Judgment would not be applicable in the facts of this case when the so called infirmities alleged by the petitioners in the conduct of Skill Test / Typing Test have been gone into threadbare by the Recruitment Committee which found that no such infirmities had occurred.

24. In view of my above discussion, I do not find any merit in the petition. The same is dismissed.

CM. No. 9579/2021

Dismissed as infructuous.