



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No. 5082/1014/2015

Dated:- 05.10.2016

In the matter of:

Shri Jabra Ram,
House No. 142, Roop Nagar,
BJS Colony, Paota 'C' Road,
Jodhpur, Rajasthan-342010.

..... Complainant

Versus

(1) Staff Selection Commission,
(Through: The Secretary),
Block No. 12, 5th Floor, CGO Complex,
Lodhi Road, New Delhi-110003.

..... Respondent No. 1

(2) Rajasthan Income Tax Office,
(Through: The Principal Chief Commissioner of Income Tax),
Central Revenue Building, State Circle,
Janpath, Jaipur (Rajasthan).

..... Respondent No. 2

Date of hearing : 17.08.2016, 19.09.2016 & 26.09.2016

Present :

17.08.2016

1. Sh. Jabra Ram, Complainant.
2. Shri R. Mohanty, Under Secretary, SSC (Hqrs.) on behalf of Respondent No. 1.
3. Vipul Kashyap, Dy. Commissioner of Income Tax, on behalf of the Respondent No.2.

19.09.2016

1. Sh. Jabra Ram, Complainant.
2. Shri R. Mohanty, Under Secretary, SSC (Hqrs.) on behalf of Respondent No. 1.
3. Vipul Kashyap, Dy. Commissioner of Income Tax, on behalf of the Respondent No.2.

26.09.2016

1. Sh. Jabra Ram, Complainant.
2. Shri R. Mohanty, Under Secretary, SSC (Hqrs.) on behalf of Respondent No. 1.
3. Shri V.J. Scaria, ITO (Hqrs.), on behalf of the Respondent No.2.

ORDER

The above named complainant, a person with 40% locomotor disability filed an email complaint dated 20.08.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding exemption from qualifying the Skill-Test for the post of Stenographer Gr. D under Physically Handicapped Category in Central Board of Direct Taxes at relaxed standard by the Staff Selection Commission (SSC), New Delhi.

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सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006
Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 ; Tel.: 23386054, 23386154 ; Telefax : 23386006

E-mail: ccpd@nic.in ; Website: www.ccdisabilities.nic.in

(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

2. The complainant has submitted that he was selected for the post of Stenographer Gr. D under Physically Handicapped Category in Central Board of Direct Taxes at relaxed standard by the Staff Selection Commission, New Delhi under "Stenographer (Gr. C & D) Examination-2011". He joined his duties in the Office of Commissioner of Income Tax-2, Jodhpur on 21.11.2012. At the time of declaration of result of above mentioned Examination, a condition was there to pass the Skill-Test to all Stenographers Gr.D selected at relaxed standard (including him) for the purpose of clearing their probation and also for confirmation of their services. He has drawn attention towards Staff Selection Commission, New Delhi's letter dated 24.01.2013 vide which all Regional Deputy Directors of SSC were directed as under:-

"The Commission has decided that if any such candidate has appeared in the skill test of Steno Grade D in Stenographer (C&D) Examination-2012 and has met the standards of upto 5% mistakes for UR and upto 7% mistakes for reserved category candidates, he/she will be deemed to have cleared the skill test prescribed by the Commission for Stenographers Grade D and will not have to again appear for the skill test specially arranged for candidates selected in 2011 Examination for CBI/CBDT at relaxed standards."

3. In compliance to the above, SSC (Western Region), Mumbai has also issued a letter to the Income Tax Department, Mumbai in F. No. 01/INT/SSC(WR)/2013/27 dated 30.01.2013 to circulate the instructions in this regard. Accordingly, Dy. Commissioner of Income Tax (HQ) Personnel, Mumbai has requested all the concerned Head of Offices, Mumbai to intimate particulars of the officials (Stenographer-2011) who have joined in the department by 8th February, 2013.

4. The complainant further submitted that in the light of above mentioned letters dated 24.01.2013 and 30.01.2013, SSC has already exempted many Stenographers Gr. D from qualifying the Skill-Test. He has cited the Examination of one Shri Abul Hasan who has been exempted from qualifying the Skill Test by the SSC vide letter No.10/1/2013-ND-II dated 12.09.2013. He has also stated that since his case is similar to Shri Anbul Hasan, he may also be exempted from qualifying the Skill Test.

5. The complainant also stated that due to no reply from the SSC in the matter, the Income Tax Department is not treating him as qualified Stenographer and has also debarred from appearing in all Departmental Examinations for promotion vide letter dated 22.07.2014 and have also cancelled his result w.r.t. "Departmental Examination for Ministerial Staff-2014". The Department has provisionally allowed him to appear in "Departmental Examination for Ministerial Staff-2015" with a condition to qualify the requisite Skill-Test before the declaration of the result of the said Examination. In this regard, he has sent his representation dated 25.02.2015 to the SSC, New Delhi for exempting him from the condition of qualifying the Skill-Test and also to the Pr. Chief Commissioner of Income Tax, Rajasthan, Jaipur for declaring his result w.r.t. "Departmental Examination for Ministerial Examination-

2014" treating him as a fully qualified Stenographer but the same are pending till date. He has, therefore, requested to take up his matter with the concerned authorities.

6. The complainant reiterated his written submissions and submitted that the letter dated 10.07.2015 issued by the Directorate of Income Tax, New Delhi was only for those relaxed category Stenographers who had not qualified the required Skill-Test by any authority till that time, but in his case, the said skill-Test had already been qualified under "Stenographer Gr. C&D Examination-2014." Therefore, in view of this fact, his candidature must be established on the basis of DIT(IT), New Delhi's letter dated 18.09.2013, in which all relaxed category Stenographers were categorized in two categories – First, the Stenographers who have not qualified the Skill-Test by any authority at all – these Stenographers were declared ineligible to appear in any Departmental Examination. Second, the Stenographers; who have qualified the Skill-Test by any authority – these Stenographers were allowed to appear in the Departmental Examination vide the said Annexure-3 dated 18.09.2013 of the Notification itself. On qualifying the regular Skill-Test conducted by SSC in 2014, I fall under the second category which makes him eligible for Departmental Examination for Ministerial Staff-2013. But the Department treated him amongst the Stenographers of the first category mentioned above and cancelled his candidature w.r.t. the said Departmental Examination in 2015. In view of these facts, his result w.r.t. M.S. Examination-2015 may be declared.

7. The matter was taken up with the respondents vide this Court's letter dated 22.09.2015.

8. Principal Chief Commissioner of Income Tax, Rajasthan vide letter dated 14.10.2015 furnished their comments on the complainant. The complainant filed his rejoinder through email dated 20.10.2015 and the same was sent to the Principal Chief Commissioner of Income Tax, Rajasthan for their comments vide letter dated 28.10.2015. Principal Chief Commissioner of Income Tax, Rajasthan have furnished their comments vide letter dated 26.11.2015 and intimated that Shri Jabra Ram has been declared as not qualified in the Skill Test. The complainant vide his letter dated 22.12.2015 has submitted his comments on the same. He has further stated that his case is very similar to Shri Abul Hasan and he has already been exempted by the SSC, New Delhi, on qualifying the Skill Test and as such he may also be exempted from the skill test.

9. The Staff Selection Commission vide letter No. 3/6/2014-P&P-II dated 29.02.2016 addressed to the Director of Income Tax (HRD), Central Board of Direct Taxes, New Delhi with a copy to this Court, have asked them to intimate whether the following two candidates i.e. Shri Jabra Ram, Roll No.2406500498 Stenographer Grade 'D' in the Office of Commissioner of Income Tax, Jodhpur and Shri Devendra Singh, Roll No.2406500260 Stenographer Grade 'D' in the Office of Commissioner of Income Tax, Jodhpur have qualified the skill test conducted by CBDT on 30.09.2015.

10. Upon considering the replies dated 14.10.2015, 24/26.11.2015 of respondent No.2, reply dated 29.02.2016 filed by respondent No.1 and complainant's emails dated 20.10.2015, 22.12.2015, 17.03.2016, 28.04.2016, a hearing was scheduled on dated 17.08.2016.

....4/-

11. During the hearing on 17.08.2016, the complainant reiterated his written submissions and submitted that imposing the said condition of re-qualifying the Skill Test by the SSC itself was discriminatory as it was imposed only upon the candidates selected at relaxed standards in the year 2011 and the same was not imposed upon the candidates selected at relaxed standards. As a result of the same, a Junior Stenographer Gr. II joining the I.T. Department after him on the basis of qualifying the Stenographer Gr. C&D Examination-2012 at relaxed standards became eligible to appear in the MS Examination and he was declared ineligible for the same only due to this discriminatory condition. At the time of declaration of result of Stenographer Gr. C&D Examination-2011 dated 31.03.2012, there was no condition w.r.t. debarring such relaxed category Stenographers Gr. II from appearing in the Departmental Examination (MS Examination). In the offer of appointment dated 25.06.2012 by the I.T. Department, there was also no condition w.r.t. debarring such relaxed category Stenographers Gr. II from appearing in the Departmental Examination (MS Examination). All the Stenographers Gr. II selected either as per prescribed standards or at relaxed standards in the I.T. Department remains under probation for a minimum period of initial two years. When a normal Stenographer Gr. II who is also under probation for initial two years is eligible to appear in the Departmental Examination, then how his eligibility/candidature can be cancelled, though status of both such Stenographers in temporary/under probationer. Stenographers Gr. II who qualified the requisite Skill Test of Stenographers Gr. C&D Examination-2012 were considered as deemed to have qualified the requisite Skill-Test but on qualifying the same under Stenographer Gr. C&D Examination-2014, why his claim for deemed to have qualified has been rejected. In spite of qualifying the Skill Test in the year 2016, the result of MS Examination, 2015 was not declared. It is prayed that the I.T. Department may consider him as deemed to have qualified the Skill Test on the basis of qualifying the requisite Skill Test under Stenographer Gr. C&D Examination-2014 and declare his result w.r.t. M.S. Examination-2015.

12. The representative of the Respondent No. 1 submitted that the complainant had appeared in the year 2011. His result was declared with the condition that he has to pass the skill within two years but he did not qualify and finally the Commission took a decision that in case of all such candidates, the CBDT and CBI may conduct test at their own level and decide whether they are fit for the job or not in the year 2015, the test which was conducted by CBDT, the complainant could not pass the test. He further submitted that the Commission has earlier sent their reply to this Court vide their letter No.3/6/2014-P&P.II dated 14.07.2016,

13. The representative of the Respondent No. 2 submitted that action is taken by their Department on the basis of orders passed by the SSC and the CAT. The complainant had passed the Skill Test conducted by the CBDT in the year 2016 only.

14. After hearing the parties on 17.08.2016 and after perusing the record, the Respondent No. 1 was directed to confirm as under:-

...5/-

- (i) Whether they conducted Skill Test Examination during the year 2012, 2013 and 2014, if so, whether the complainant appeared in the said Examination or not?
- (ii) The complainant appeared in the Skill Test in the year 2014, the Respondent No.1 is directed to confirm whether the same is the regular test or it is only skill test for the candidates appointed in the year 2011 and 2012.
- (iii) Whether the Respondent No.1 has granted exemption to candidates selected on relaxed standards including the complainant.

The case was scheduled for hearing on 19.09.2016.

15. During the hearing the representative of the Staff Selection Commission submitted that the information called by this Court vide Record of Proceedings dated 29.08.2016 is being collected. Hence, the same cannot be provided just now. Therefore, the matter was requested to be postponed for one week.

16. On the request of the Respondent No.1, the matter is adjourned to 26.09.2016. The Respondent No.1 is directed to submit the required information in this Court on the next date of hearing.

17. During the hearing on 26.09.2016, the complainant again reiterated his written submissions and submitted that he was selected for the post of Stenographer Gr. D in the category of person with disability in Central Board of Direct Taxes at relaxed standard by the Staff Selection Commission. After that Shri Abul Hasan was exempted from the condition of passing the Skill Test. On this basis, I had qualified the Regular Skill Test in the year 2014 and sought exemption which was denied. As per letter No.2903 to 2922 dated 18.09.2013 of the Income Tax Department, relaxed category Stenographers were categorized in two categories – (i) Who have not qualified any test, and (2) Those who have qualified any Skill Test from any authority. I belong to second category. But counting me in the first category, I was allowed provisional to appear in the Departmental Examination, my result was cancelled which is discriminatory.

18. The representation of Staff Selection Commission, Respondent No.1 submitted a copy of reply dated 23.09.2016 during the hearing, which was taken on record and submitted that the main focus of the complaint of the complainant was exemption from Skill Test which he had appeared in the year 2014 in the Open Examination. This was on the basis of similar exemption given to Shri Abul Hasan and another who had appeared in the Stenographer C& D Examination, 2012 and cleared the Skill Test. The considered view of the SSC is that the exemption extended to Shri Abul Hasan was for a particular period and the SCC did not extend that exemption to any other candidates beyond that specified period. Obviously, the exemption claimed by the complainant does not fall under the category of exemption given to Shri Abul Hasan. Therefore, he is not entitled to get any exemption. As per records, the complainant did not appear in the Skill Test held on 23.08.2014. He appeared in the Skill Test held on 27.10.2014 and he did not qualify the Skill Test.

.....6/-

19. The representative of the Respondent No.2, the Principal Chief Commissioner of Income Tax submitted that so far as the claim of the complainant regarding cancellation of Ministerial Staff Examination conducted by the Department in the year, 2015 is concerned, it may be pointed out that he was allowed to appear in the Ministerial Staff Examination provisionally subject to the condition that he will clear the Skill Test before declaration of the Ministerial Staff Examination. But since he neither cleared the Skill Test nor got any exemption in view of his clearing the Open Examination, 2014 conducted by Staff Selection Commission, his result relating to Ministerial Staff Examination was cancelled.

20. After hearing the parties and perusal of the records available in the file, there appears no violation of any provision of the Persons with Disabilities Act, 1995 or Government instructions, no direction can be given to the respondent in the matter.

21. The case is disposed off accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities.