



2026:AHC:166845

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 6755 of 2018

Ashok Kumar And 7 Ors.

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Karmik Anubhag
And 3 Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: Mahesh Sharma, Vinod Sinha
Counsel for Respondent(s)	: Vishnu Swaroop Srivastava, C.S.C.

A.F.R.

Court No. - 34

(Sl.No.5)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Mahesh Sharma, learned counsel for the petitioners and Sri Rajiv Gupta, learned Additional Chief Standing Counsel for the State and Shri Vishnu Swaroop Srivastava, Advocate appearing for the impleaded respondents no. 5, 6, 7, and 8.

2. The instant petition has been filed by the petitioner with the following prayers:

"(I) Issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to promote the petitioners on Group "C" post according to Rule 8(2) of Uttar Pradesh Subordinates Officers Minsiterial Cadre Group "C" Lowest Cadre Post (Recruitment by Promotion Rules 2001).

(II) Issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to decide the representation dated 21.1.2018 and 25.1.2018 filed by petitioners (Annexure No.5 and 7 respectively."

3. Learned counsel for the petitioners submits that out of the eight petitioners herein, petitioner no.1 Ashok Kumar, petitioner no. 2 Uday

Bhan Tiwari, and petitioner no.3 Satyavan Pathak have already attained the age of superannuation and has retired on 30.04.2024, 30.06.2023, and 31.01.2026 respectively. It is further submitted by learned counsel for the petitioners that the petitioner no. 8 has already been promoted to the post of Junior Assistant.

4. In such view of the matter, the instant petition on behalf of the petitioners no. 1, 2, 3, and 8 has become infructuous. Accordingly, the instant petition on behalf of the petitioners no 1, 2, 3, and 8 is dismissed as infructuous. Now, the instant petition survives only on behalf of the petitioners no. 4, 5, 6, and 7.

5. Learned counsel for the petitioners submits that the petitioners are the confirmed employees working on the post of class-IV in the office of Collectorate, Gorakhpur. Petitioner no. 4 was appointed on 07.08.1992, petitioner no. 5 was appointed on 07.03.1996, petitioner no. 6 was appointed on 07.02.1992 and petitioner no. 7 was appointed on 05.04.2006. On 3.8.2017, a circular was issued by the Principal Secretary, State of U.P. for filling up the post of Junior Group- C post that is of Junior Assistant. According to the aforesaid circular, the petitioners being eligible, had applied for the aforesaid post. Learned counsel for the petitioners submits that for the purpose of filling up of the post of Junior Assistant in terms of Rule 8(2) of U.P. Subordinate Offices Ministerial Group 'C' Posts of the Lowest Grade (Recruitment by Promotion) Rules, 2001 (in short '2001 Rules') the respondents were required to conduct the written test, interview and thereafter the evaluation of character roll and thereafter, if the said post required typing efficiency, then typing test is required to be held by the respondents.

6. It is the case of the petitioners that instead of conducting the written test as required, the respondents had passed an order on 08.12.2017 to conduct the typing test on 17.12.2017, in which the petitioners appeared but failed in typing test as they could not obtain the minimum speed of 25 words per minute as required as per Note 2 of Rule 8(2) of 2001 Rules. Thus, they have not been selected. Being aggrieved, the instant petition has been filed by the petitioners. During the pendency of the instant petition, respondents no. 5, 6, 7 and 8, who had qualified the typing test,

have been promoted. Subsequently, by way of the amendment, the petitioners have also challenged the order of promotion of respondents no. 5, 6, 7, and 8.

7. Learned counsel for the petitioners, relying upon the judgments of this Court dated 19.04.2017 in Writ- A No. 31072 of 2016 (Mukesh Kumar vs. State of U.P. and 3 others) as well as the judgment of Division Bench of this Court dated 26.11.2013 in Writ-A No. 42589 of 2013 (State of U.P. and 3 others vs. Narendra Kumar Mishra and another) and judgment of this Court dated 20.07.2010 passed in Special Appeal (Defective) No. 477 of 2010 (State of U.P. and others vs. Umesh Chandra Srivastava), as well as the judgment dated 26.11.2015 passed in Special Appeal Defective No. 550 of 2015, submits that the typing test is required to be held only for the purposes of selection/promotion on the post, where the typing is necessary qualification and not otherwise. Thus, learned counsel for the petitioners further submits and in case the typing is necessary, then the typing test would have to be conducted. Here, the respondents have conducted the typing test first and once the petitioners were disqualified in typing test, they have not been allowed to appear in the written test and interview. Therefore, learned counsel for the petitioners submits that there is a violation of the procedure as prescribed in 2001 Rules.

8. Per contra, learned counsel appearing for the impleaded respondents relied upon the U.P. Government Departmental Ministerial Cadre Service Rules, 2014 (in short '2014 Rules'), which have superseded the 2001 Rules and as per 2014 Rules, for the direct recruitment on the post Junior Assistant, it has been provided that the speed of 25 words per minute and 30 words per minute in Hindi typewriting and English typewriting respectively, is an essential qualification for considering a candidate for the post of Junior Assistant and not only that he has also been required to possess the qualification of CCC certificate in computer operation awarded by DOEACC Society or a certificate equivalent thereto awarded by an institution recognized by the government. Though, Rule 18 of 2014 Rules provides for the purpose of promotion to the post of Junior Assistant in the service shall be made in accordance with 2001 Rules as

amended time to time. Thus, since it is in terms of 2014 Rules, all the post of Junior Assistant is required the qualification of typing test and as Note-2 itself provides that wherever there is a requirement of typing, then the examination for typing test shall also be conducted and typing speed is required to be assessed as 25 words per minute in Hindi.

9. Thus, learned counsel for the respondent submits that once the typing test is an essential qualification for the post of Junior Assistant, then the department has first assessed the eligibility of the petitioner for promotion and thereafter, the promotion have been made after conducting the typing test, written examination, interview and assessed the service record of the particular persons and the respondents no. 5, 6, 7 and 8 have qualified the typing test as well as written test and interview and after their assessment of their records, they have been promoted. Therefore, their promotion cannot be challenged by the petitioners in any manner or that too by a candidate, who has failed to qualify the typing test, which is an essential qualification in view of Rule 10 of 2014 Rules. Thus, learned counsel for respondents no. 5, 6, 7 and 8 seeks dismissal of the instant petition.

10. Learned Additional Chief Standing Counsel for the State has also relied upon Rules- 10 and 18 of 2014 Rules read with Rule 8(2) and specifically Note 2 of Rule 8(2) of 2001 Rules and submits that since now after 2014, the typing is the necessary requirement for the promotion as well as for direct recruitment on the post of Junior Assistant. In such view of the matter, he submits that there is no illegality in conduct of the typing test prior to taking the written examination and assessing the eligibility of the petitioners in terms of Rule 8(2) of 2001 Rules. Thus, he seeks dismissal of the instant petition.

11. Having heard the submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case. The facts of the case have already been noted herein above. The petitioners are aggrieved only due to the conduct of the typing test to assess the eligibility of the candidates for promotion to the post of Junior Assistant, whereas the contention of the petitioners is that in terms of 2001 Rules, the typing test is to be considered later on after the written test and interview is conducted.

12. Before proceeding further, it would be relevant to take note of Rule 8 of 2001 Rules as well as Rule 10 and Rule 18 of 2014 Rules, which reads as under:

"8. Procedure for recruitment by promotion - (1) For the purpose of recruitment by promotion, there shall be constituted a Selection Committee in accordance with the provisions of the Uttar Pradesh Constitution of Departmental Promotion Committee for posts outside the purview of the Public Service Commission Rules, 1992, as amended from time to time.

Note : Nomination of Officers for giving representation to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of Citizens in the Selection Committee shall be made in accordance with the order made under Section 7 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994, as amended from time to time.

(2) Recruitment by promotion shall be made on the basis of merit as disclosed by marks obtained in the test for selection through the Selection Committee constituted under sub-rule (1). The test for selection shall include a simple written test, interview and evaluation of character roll. The maximum marks to be assigned for written test, interview and evaluation of character roll shall be as given below:

- (a) Written Test Thirty marks*
- (b) Interview Ten marks*
- (c) Evaluation of character roll Ten marks*

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Fifty marks
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Note 1 - The written test shall include a single question paper. The question paper shall contain two questions. Each question shall carry fifteen marks. One question shall be on Hindi Essay writing on a simple topic and the other shall be on General Knowledge.

Note 2 - Where recruitment by promotion is being made for the post of Typist or a post for which Hindi Typewriting is essential, there shall be conducted a qualifying test of Hindi Typewriting also, as prescribed by

the Government from time to time. To qualify this test a candidate must have a minimum speed of twenty-five words per minute in Hindi Typewriting.

(3) The Selection Committee shall conduct the test of eligible candidates under sub-rule (2). After the marks obtained by the candidates in the said test have been tabulated, the Selection committee shall, having regard to the need for securing due representation of the candidates belonging to the Scheduled Castes and Scheduled Tribes in accordance with rule 6, prepare a list of candidates in order of merit as disclosed by marks obtained by them in the said test and recommends such number of candidates by marks obtained by them in the said test and recommends such number of candidates as, on the basis of the result of the said test have come up to the standard fixed by the Selection Committee in this respect. If two or more candidates obtain equal marks the candidate obtaining higher marks in the written test shall be placed higher in the list. In case two or more candidates obtain equal marks in the written test also, the candidate senior in age shall be placed higher in the select list. The Selection Committee shall forward the list to the appointing authority."

12. As per Rule 10 of 2014 Rules, for the post of Junior Assistant, the essential qualification is minimum speed of 25 words per minute in Hindi and 30 words per minute in English typewriting and knowledge of computer. Rule 8(2) provides the detailed procedure for the purpose of promotion. Rule 8 of 2001 Rules provides the detailed procedure for the promotion to the post of Group C from Group IV and it is provided for the conduct of written examination, interview and evaluation of the character roll of the person. However, Note 2 of Rule 8(2) specifically provides that wherever any post requires the typing knowledge, then the typing test is required to be conducted and for which the minimum speed is required for being eligible is 25 words per minute in Hindi.

13. Thus, the typing speed from the cumulative reading of both the aforesaid provisions of 2001 Rules as well as 2014 Rules, in the considered opinion of this Court, the minimum eligibility condition for the promotion to the post of Junior Assistant is the knowledge of typing, which is to be assessed to the the minimum speed of 25 words in Hindi

and 30 words per minute in English and rest of the procedure is to be followed by the minimum typing speed as provided herein above becomes the eligibility condition for promotion in terms of 2014 Rules as well as 2001 Rules.

14. Therefore, this Court do not find any illegality in the procedure adopted by the respondents in the promotion of the petitioners as well as the respondents and there is no illegality in first assessing the eligibility of the candidates, which is the minimum eligibility qualification for promotion and then to conduct the written test and interview for the purpose of final selection as in terms of Rule 8(2) of 2001 Rules. None of the judgments, which have been relied upon by learned counsel for the petitioner has ever considered the impact of 2014 Rules in selection. In such view of the matter, the same cannot be relied upon as they have been based on the position of law prior to 2014 Rules.

15. In view thereof, the instant writ petition fails and accordingly, **dismissed.**

(Anish Kumar Gupta,J.)

August 10, 2026

Ashish Pd.