



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 1212/2015

Mamta Sharma

-----Petitioner

Versus

State And Ors.

-----Respondent



For Petitioner(s) : Mr. Manoj Bohra.
For Respondent(s) : Mr. N.S. Rajpurohit, AAG.
Ms. Rakhi Choudhary.

HON'BLE MR. JUSTICE ARUN MONGA
Order (Oral)

10/01/2025

1. Petitioner herein seeks modification of an order dated 28.11.2013 (Annex.14) passed by Additional Director (Admin.) Medical and Health Services, Rajasthan, to extent that her services be treated as confirmed from 06.08.2012 instead of 08.04.2013 and further seeks consequential benefits arising therefrom.
2. Briefly speaking relevant facts as pleaded in the petition are as follows:
 - 2.1. The petitioner was initially appointed vide order dated 06.08.2010 to the post of Lower Division Clerk on compassionate grounds and joined her services. Thereafter, upon completion of her probation period on 06.08.2012, she submitted a representation to the respondents requesting that her typing test be conducted, as required for regularization under the Rajasthan Compassionate Appointment Rules, 1996. The said test was to be cleared within a period of two years i.e. during probation period;



however, the respondents on their own never conducted the test during these two years. She repeatedly approached the respondents for the test, but to no avail.

2.2. Subsequently, the respondents conducted the typing test on 03.04.2013, and at the first instance, the petitioner cleared the test. Her services were confirmed vide order dated 28.11.2013 (Annex.14) w.e.f. 08.04.2013. Thereafter, she approached the competent authority, stating that her services should have been confirmed w.e.f. 06.08.2012, i.e., on the completion of her 2-year probation period, instead of 08.04.2013. However, no action has been taken by the respondents. Hence, this petition.

3. The stand taken in the reply is that according to the appointment order, the petitioner was required to pass the Computer Type Test within two years, to be conducted by the department. The petitioner applied for the examination. Initially, a typewriter test was conducted, but following the circular dated 19.08.2010 and order dated 06.09.2010 from the Department of Personnel, Government of Rajasthan, the Computer Type Test was introduced. Due to this, the establishment of the Computer Lab, along with the finalization of the syllabus, rules, and procedures, was delayed by the state government. As a result, the petitioner's application was returned. After the procedures were finalized, the examination began in April 2013, and the petitioner was allowed to appear. She passed the test, and the respondents issued a certificate to her on 08.04.2013.

4. In the aforesaid backdrop, I have heard the rival contentions.

5. At the very outset, I am constrained to observe that the stand taken by the respondents is completely lopsided. They



assert that since the petitioner did not clear the type test within 2 years, as envisaged under the applicable service rules, her services were not confirmed upon completion of the probation period. No doubt, it was incumbent upon the petitioner to pass the requisite test, but the shoe seems to be on the other foot in the present case. The petitioner was willing and available throughout to be subjected to the aforesaid test, but it is the department that failed to conduct the test within the stipulated period of 2 years.

6. In fact, the department has candidly admitted that the test could not be conducted because the syllabus, along with other rules, was still under preparation. As and when the syllabus and rules were finalized, the test was conducted on 03.04.2013, and the petitioner cleared it on the very first attempt, though, of course, after a period of 3 years.

7. Therefore, I am of the view that the department cannot attribute the delay in the clearance of the test to the petitioner, as the conceded position is that the test was not conducted due to delays on the part of the department.

8. In fact, it would be apposite to reproduce relevant Paras No.2 and 3 of the reply, which are as below:

“2. That as per appointment order, the petitioner should have pass the Computer Type Test within two years from the date of appointment which would be conducted by the replying respondent. The petitioner had applied for the said examination to the replying respondent.

3. That it is relevant to mention that prior to conducting the computer type test, the type test on typewriter was conducted and vide circular dated 19.08.2010 and order dated 06.09.2010 issued by the Department of Personnel, Government of Rajasthan, Jaipur, the Computer Type Test was started. Therefore, in compliance of these orders, the matter of establishing the Computer Lab with the replying respondent,



Syllabus of examination, Rules and procedure of conducting the said examination was under process before the state government. Therefore, the application form of petitioner was return to the department and after finalization of the syllabus of examination, Rules and Procedure of the said examination, the replying respondent had started conducting the examination only after April, 2013 onwards and after starting the examination, the application form of petitioner was included and she was allowed to appear in the Computer type test and in the result, she was declared passed and replying respondent had issued the certificate dated 08.04.2013 to the petitioner.”

9. In view of the aforesaid candid stand taken by the respondents, I am of the view that the petition filed by the petitioner must necessarily be allowed.

10. It is accordingly so ordered.

11. The order dated 28.11.2013 (Annex.14) passed by Additional Director (Admin.) Medical and Health Services, Rajasthan, stands modified. The respondents are directed to regularize the services of the petitioner with effect from 06.08.2012, which is the date of completion of her probation period, instead of 08.04.2013. The petitioner shall also be entitled to all consequential benefits arising therefrom. The necessary exercise shall be carried out by the respondents within two months from the date the petitioner approaches the competent authority with a copy of the instant order.

13. Pending application(s), if any, also stand disposed of.

(ARUN MONGA),J

166-Sumit/-

Whether Fit for Reporting: Yes / No