

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

WA.No.95 of 2019
CMP.No.827 of 2019

M.Ramalakshmi

Appellant/Petitioner

Vs

1.The State of Tamil Nadu by Secretary to Government
Home Department, Chennai-9

2.The Tamil Nadu Uniformed Service Recruitment Board
by its Chairman, Egmore, Chennai-8

3.The Director General of Police
Mylapore, Chennai-4

Respondents

Prayer:- This Writ Appeal is filed, against the order dated, 30.10.2018, made in WP.No.33188 of 2018, by this Court.

Prayer in W.P.No.33188 of 2018: Petition filed Under Article 226 of the Consitution of India, directing the 2nd Respondent to condider the representation dated 07/09/2018 of the Petitioner and fix a date for Physical Measurement test, Endurance test and Physical efficiency test and Certificate verification within the time frame fixed by this court.

For Appellant सत्यमेव जयते : Mr.P.Arungavel

For Respondents : Mr.P.S.Shanmugasundram, SGP

JUDGEMENT

(Judgement of the Court was made by SUBRAMONIUM PRASAD, J.)

Aggrieved by the order, dated, 30.10.2018, made in WP.No.33188 of 2018, dismissing the said Writ Petition, the Writ Petitioner has filed the instant Writ Appeal.

2. For the sake of convenience, the parties herein after are referred to as they were arrayed in the Writ Petition.

3. The facts, which are necessary for disposal of this Writ Appeal, are as follows:-

a. The 2nd Respondent invited applications for common recruitment to the post of Grade-II Police Constable (Men, Women and Transgender), Grade-II Jail Warder (Men and Women) and Firemen, for the year 2017-2018, through direct recruitment in the month of December, 2017 and the Petitioner applied for the same. The Petitioner appeared for the written examination conducted in the month of March, 2018 and she was selected through the written test. She delivered a male child on 11.08.2018 and was discharged from the Hospital on 16.08.2018. The 2nd respondent called upon the Petitioner to appear for the physical measurement test, endurance test and physical efficiency test which were to be held on 08.09.2018. The writ petitioner could not attend the said tests on the said date, due to her physical condition. The writ petitioner had sent a representation, dated 07.09.2018, for postponing the said tests, which were to be held on 08.09.2018, to some other date for her benefit. Since the said representation was not considered, the Writ Petition was filed, seeking for issuance of a Writ of Mandamus, directing the 2nd Respondent to dispose off the said representation of the Petitioner and to fix a date for physical measurement test, endurance test, physical efficiency test and certificate verification for her, within a time frame to be fixed by this Court. The learned Single Judge of this Court dismissed the said Writ Petition, by the impugned order, as against which this Writ Appeal has been filed.

4. This court heard the learned counsel on either side and also perused the materials placed on record.

5. While arguing in this Writ Appeal before this Hon'ble Division Bench, the learned counsel for the Appellant has placed reliance on the following orders of the other High Courts:-

- i. Order, dated, 17.03.2014 made in OA.No.2582 of 2013 by the Kerala High Court (Kerala Public Service Commission and another Vs. K.Sini)
- ii. Order, dated 30.05.2017, made in D.B.Civil Writ Petition No.18808 of 2015, by the Rajasthan High Court (Laxmi Devi Vs. State of Rajasthan and others)
- iii. Order, dated 03.08.2017, made in Civil Writ Jurisdiction Case No.604 of 2017, by the Patna High Court (Ishika Raj Vs. State of Bihar and others).

6. At the outset, it is pertinent to state that there is nothing stipulated in the Maternity Benefit Act, 1961, which gives any right to a person, taking written examinations, to ask for postponement of the consequential examinations/tests, if the person taking the examination is unable to participate in the said consequential tests, on account of pregnancy.

7. The Petitioner had appeared in the written examinations in the month of March, 2018. She knew very well that if she clears the written examinations, she has to take up the consequential tests, namely, physical measurement test, endurance test and physical efficiency test.

8. Selection to the post of Grade-II Police Constable (Men, Women and Transgender), Grade-II Jail Warder (Men and Women) and Firemen, for the year 2017-2018, is done by way of a Competitive Examination. The candidates, who secured more marks in the test, are selected. It is the performance on that date, which decides the fate of the candidates. Therefore, the Petitioner cannot claim, as a matter of right, postponement of the said tests, only for her. It would be unfair on other candidates if separate tests are conducted for the Petitioner alone. In such view of the matter and in the absence of any provision under the Maternity Benefit Act, 1961 or any other law, enabling a person, who has taken the written examinations, to seek for postponement of the consequential examinations/tests, we are not in agreement with the above said Judgements of the Kerala High Court, Rajasthan High Court and the Patna High Court.

9. Further, the learned Single Judge of this Court dismissed the Writ Petition, relying on an earlier order of this Court, dated, 08.08.2017 made in WP.No.21107 of 2017, wherein, the claim of the Petitioner therein was negatived. We are also of the considered view that as a matter of right, the Petitioner cannot claim for postponement of the examination for her and as such, we are in complete agreement with the impugned order passed by the learned Single Judge of this Court, which warrants no interference by us. Consequently, this Writ Appeal is liable to be dismissed.

10. In the result, this Writ Appeal is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Srcm

Sub Assistant Registrar

To:

1.The State of Tamil Nadu by Secretary to Government
Home Department, Chennai-9

2.The Tamil Nadu Uniformed Service Recruitment Board
by its Chairman, Egmore, Chennai-8

3.The Director General of Police
Mylapore, Chennai-4

+1 cc to the Government Pleader, S.R.No.5052

WA.No.95 of 2019

SJ(CO)
SSM(26/02/2019).



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