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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 413/2019

SUMAN BAI MEENA

..... Petitioner

Through: Mr.Aditya Swarup Agarwal,
Advocate

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Vijay Joshi, Advocate with
Mr.Sahaj Garg, Advocate with
Mr.Yogesh, SI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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26.04.2019

1. The Petitioner successfully completed the selection procedure for appointment as Constable (General Duty) in the CISF resulting in the Respondents issuing her an appointment letter dated 19th March 2017 requiring her to commence training at the Central Industrial Security Force, Regional Training Center Arrakkonam, Tamil Nadu from 2nd May 2017 onwards.

2. On 29th March 2017 the Petitioner wrote to the Respondents informing them that she was expecting a baby and requested for extension of six months to join training with the next batch.

3. When the Petitioner did not receive any reply she sent an email dated 25th April 2017. She did not receive any reply even to this email.

4. Having received no reply for several months the Petitioner made two further representations on 8th October 2017 and 1st November 2017. It must be noted at this stage that the Petitioner delivered a baby on 1st June 2017 and therefore was in a position to report for training on the completion of six months from the date of the issuance of an appointment letter to her.

5. For the first time on 3rd November 2017 the Respondents sent a reply to Petitioner stating that her case had been referred to the Inspector General at Hyderabad for consideration of her request. Again when no further decision was communicated to the Petitioner, she sent an email dated 21st January 2018. On 16th February 2018 the Respondents informed her that her case had been taken up with the CISF at RTC Arrakkonam and that any progress regarding the case will be informed by the ‘concerned unit’.

6. Nothing was again heard from the Respondents. On 18th July 2018 the Petitioner sent another reminder. On 1st August 2018 the Respondents gave her a stock reply that her case was still under consideration. On 20th September 2018 she was informed that her request had been taken up by the Staff Selection Commission for consideration and that she would be informed shortly.

7. Ultimately a letter was sent to her on 15th November 2018 stating that her case had been taken up by the Ministry of Home Affairs (‘MHA’). By a note dated 22nd October 2018, the MHA had stated that the maximum extension for the joining time in such instances was six months from the date of the original offer of appointment and since more than six months had elapsed, the MHA could not accede to the request of the CISF for revival of her offer

of appointment.

8. The same stand has been taken by the Respondents in the counter affidavit filed in the present petition. Enclosed with the counter affidavit is the entire correspondence in this regard.

9. The Court fails to appreciate how the laxity on the part of the Respondents in not informing the Petitioner of her date of joining on the expiry of six months from the date of initial offer should come in the way of the Petitioner being sent for training. It is seen that it is the Respondents who delayed their reply to the Petitioner's request, which she has been making since 29th March 2017, till 15th November 2018. Apart from repeatedly telling her that her case was under consideration, no effort was actually made to require her to join for training. The proper course would have been for the Respondents to send her an intimation closer to the date of the expiry of six months from the date of the initial offer, which extension she was in any way entitled to in accordance with the rules and give her the time and date on which she should report for training. For the reasons best known to the Respondents, this was not done.

10. On account of the lackadaisical approach of the Respondents, the Petitioner was not in a position to report for training after the expiry of six months from the date of the initial offer of appointment made to her. On her part she had repeatedly written to the Respondents asking them to inform her when she should join for training. Therefore there can be no mistake on her part in not approaching the Respondents to report for training.

11. In these circumstances, the Court finds the rejection of the Petitioner's request by the MHA by its note dated 22nd October 2018 communicated to her by the letter dated 15th November 2018 to be most unfair and unreasonable and therefore unsustainable in law. The Petitioner could not have been discriminated on account of her medical condition which was legitimate and which under the rules revised by the Respondents themselves permitted postponement of her reporting for training in such circumstances by maximum period of six months.

12. Accordingly, the said decision of the MHA by its note dated 22nd October 2018 communicated to her by the letter dated 15th November 2018 is hereby set aside.

13. Learned counsel for the Respondents on instructions informs the Court that subject to the Petitioner clearing further medical tests she will be sent a due intimation not later than four weeks from today informing her when she should report for training.

14. The petition is allowed in the above terms.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 26, 2019

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