

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 425 of 2024

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RADHIKA SHANKARBHAI PAWAR
Versus
GUJARAT PUBLIC SERVICE COMMISSION (GPSC) THROUGH SECRETARY
=====

Appearance:

MR BRIJESH K RAMANUJ(9898) for the Petitioner(s) No. 1
MR HS MUNSHAW(495) for the Respondent(s) No. 1,2
MR. RISHIN R PATEL(7222) for the Respondent(s) No. 3
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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 09/02/2024

ORAL ORDER

1. Heard learned Advocate Mr. Brijesh K. Ramanuj on behalf of the petitioner, learned Advocate Mr. H.S. Munshaw on behalf of respondents no. 1, 2 and learned Advocate Mr. Rishin Patel on behalf of respondent no.3.

2. By way of this petition, the petitioner has sought for following prayers:

“12. a) Your Lordships may be pleased to admit and allow this petition.

b) Your Lordships may be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction in the nature of mandamus and direct the respondents to extend the time of interview for the post of Assistant Manager (Finance & Accounts), Class 1 (GMDC), in the interest of justice.

c) Pending admission, hearing and /or final disposal of this petition, Your Lordship may be pleased to pass appropriate writ, order/ direction to the respondents to stay further procedure with respect to the above-mentioned advertisement GPSC/201920/137 for the post of Assistant Manager, (Finance & Accounts), Class (GMDC).

d) Pending admission, hearing and or final disposal of this petition, Your Lordships may be pleased to direct the respondents not to declare the final results pertain to abovementioned Advertisement GPSC/201920/137 for the post of Assistant Manger (Finance & Accounts), Class – 2(GMDC) and /or to take appropriate steps to safeguard the interest of the present petition, in the interest of justice.

e) Such other and further relief as Your Lordships may deem just, fit and expedient be granted in favour of the petitioner.

3. It would appear that the petitioner was an aspirant in a selection process conducted by the respondent no. 2 vide advertisement no. 137 /2019-20 for the post of Assistant Manager (Finance and Account) Class II with the respondent no. 3, has inter alia questioned the decision of the respondent authorities in not accommodating the present petitioner for interview to the post in question. The petitioner upon passing the written examination was called for attending oral interview and whereas, the petitioner was not able to reach the office of the Public Service Commission as she had delivered a child a day prior to the date of the interview. It is contended that the petitioner had informed the respondents about her

inability to attend the interview on account of being in advanced stage of pregnancy and whereas without considering the request of the petitioner, the respondents, had rejected the request by holding that the present petitioner ought to have remained present during the dates in question.

4. To elaborate it would appear that the petitioner having appeared in the selection process i.e. having appeared in the written examination, had been informed of being selected for interview, more particularly the interview programme being declared by the respondents vide communication dated 18.12.2023 whereby the proposed dates for interview were mentioned as 01.01.2024 and 02.01.2024. It would appear that on the very day, the petitioner had intimated to the respondents that the petitioner was in advanced stage of pregnancy, more particularly the due date for the delivery being fixed in the first week of January 2024 therefore, it would be not possible for the petitioner to have attended the interview and whereas it was requested that either the interview programme may be postponed or the petitioner may be permitted to appear for the interview through online mode. It would appear that while the issue was pending consideration, though the stand of the respondent- Public Service Commission in the reply being that the petitioner was orally informed to remain present and the petitioner had agreed, whereas nothing like the same appears on record, yet, the petitioner had given birth to a child on 31.12.2023 and whereas immediately on the said date the petitioner through E-mail informed the respondents that she had delivered a child on the said date and whereas it would not be possible for her to attend the interview and on the very next date or the day thereafter and whereas a request for postponement was made and whereas the said request had been rejected by the respondents.

5. Upon this Court issuing the notice to the respondents on 09.01.2024 learned Advocate Mr. Munshaw has appeared and filed reply and whereas

very fairly, attention of this Court is drawn to an office order dated 23.05.2016 which inter alia empowers the Chairman, to relax the date of interview in exceptional cases, more particularly the circumstances being referred to in the office order itself.

6. Perusing the office order it would appear that the Chairman was empowered to relax the dates for interview in case of female candidates who had either delivered a child or whose due date was near about the dates of the interview.

7. It is submitted by learned Advocate for the respondent that since the dates for interview were fixed well in advance, the respondents could not consider the case of the petitioner as per the said policy.

8. In the considered opinion of this Court, without delving further into the facts, the grievance of the petitioner could be assuaged at this stage by directing the respondent- Public Service Commission to follow their own policy inasmuch as when the Chairman of the Public Service Commission being empowered to consider the case of female applicants, who had either delivered a child or who were pregnant and whose due dates were near about the dates of the interview then, the present would be a fit case, inasmuch, as the petitioner having delivered a child on 31.12.2023 it would have been next to impossible for the petitioner to have attended the interview on 01.01.2024 and 02.01.2024.

9. In this view of the matter, the respondent- Public Service Commission is directed to hold the interview for the petitioner separately withing a period of 15 days from today and whereas the interim relief granted by this Court shall continue till the interviews are over and the results are declared and whereas after interview of the petitioner, the

respondent Public Service Commission shall act according to the merit position of the petitioner.

10. With the above observations and directions, the present petition stands disposed of as allowed. Direct service is permitted.

NIRU

(NIKHIL S. KARIEL,J)