



CGHC010367402026



2026:CGHC:44498-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 924 of 2026

Dr. Nikita Shrivastava W/o Abhishek Singh Aged About 37 Years R/o D K Hospital Plot No. 111, Transport Nagar, Indira Commercial Complex, Korba, District Korba Chhattisgarh.

... Appellant.

versus

1 - State Of Chhattisgarh Through- The Secretary Department Of Medical Education Mahanadi Bhawan Atal Ngar Raipur, District Raipur Chhattisgarh.

2 - The Dean Late Bisahu Das Mahant Memorial Government Medical College Korba, District Korba Chhattisgarh.

3 - The Director Medical Education Government of Chhattisgarh, Raipur District Raipur Chhattisgarh.

...Respondents

For Appellant : Mr. Sabyasachi Bhaduri, Advocate.

For Respondent-State : Ms. Anuja Sharma, Dy. GA.

Hon'ble Shri Krushna Ram Mohapatra, Chief Justice

Hon'ble Shri Santosh Sharma, Judge

Judgment on Board

Per Krushna Ram Mohapatra, Chief Justice

14.10.2026

1. Appellant in this writ appeal seeks to assail the order dated 08.09.2026 (Annexure A-1) passed by learned Single Judge in

WPS No.6563/2026, whereby the writ petition filed by the petitioner was dismissed.

2. Learned counsel for the appellant submits that the appellant had filed the writ petition assailing the impugned termination notice dated 06.08.2026 (Annexure P-1 of writ petition). The appellant was appointed as 'Assistant Professor (contract)' in the Department of Obstetrics & Gynaecology at late Bisahu Das Mahant Memorial Government Medical College Korba with effect from 16.11.2022. During her employment, she has conceived and sought for maternity benefits under the provisions of the Maternity Benefits Act, 1961 (for brevity, 'Act of 1961'). As such, she made an application on 31.07.2026 seeking '180 days' paid maternity leave with effect from 01.08.2026 to 28.01.2027, enclosing the requisite medical certificates/documents. Said application was duly recommended by the Head of the Department on 03.08.2026 for necessary approval of the Dean, late Bisahu Das Mahant Memorial Government Medical College, Korba/respondent No.2. However, pending consideration of said application, the appellant was surprised to receive the termination notice of one month dated 06.8.2026. Learned Counsel further submits that though by virtue of said termination notice, contractual services of appellant came to an end on 05.09.2026, but the appellant is still continuing in her services. As per terms and conditions of her contractual appointment, appellant's contractual employment would have come to an end on joining of the regular employee in the post, in

which, the appellant was continuing. The regular appointee namely Dr. Sheela Verma joined the post on 25.06.2026, but the appellant was allowed to continue in her contractual appointment even thereafter. Learned Counsel contended that in view of pronouncement of the Hon'ble Supreme Court in case of **Dr. Kavita Yadav versus Secretary, Ministry of Head and Family Welfare Department and Ors**, reported in, **(2024) 1 SCC 421**, the maternity leave could not have been denied to the appellant. He verily relied upon the observation made at para-14 in case of **Dr. Kavita Yadav** (supra), which reads as under:

“14. Our independent analysis of the provisions of the 1961 Act does not lead to an interpretation that the maternity benefits cannot survive or go beyond the duration of employment of the applicant thereof. The expression employed in the legislation is ‘maternity benefits’ [in Section 2(h)] and not ‘leave’. Section 5(2) of the statute, which we have quoted above, stipulates the conditions on the fulfilment of which such benefits would accrue. Section 5(3) lays down the maximum period for which such benefits could be granted. The last proviso to Section 5(3) makes the benefits applicable even in a case where the applicant woman dies after delivery of the child, for the entire period she would have been otherwise entitled to. Further, there is an embargo on the employer from dismissing or discharging a woman who absents herself from work in accordance with the provisions of the Act during her absence. This embargo has been imposed under Section 12(2)(a) of the Act. The expression “discharge” is of wide import, and it would include

“discharge on conclusion of the contractual period”. Further, by virtue of operation of Section 27, the Act overrides any agreement or contract of service found inconsistent with the 1961 Act.”

3. Learned Counsel further submits that although the learned Single Judge took note of the decision of **Dr. Kavita Yadav** (supra), but declined to apply the ratio laid down therein on the ground that the facts and circumstances of the present case were distinguishable. Resultantly, the writ petition filed by the appellant was dismissed. Learned Counsel further submits that even a contractual employee is entitled to get the maternity benefit under the Act of 1961 even if the maternity leave goes beyond the contractual period. The appellant while making an application on 31.07.2026 was in contractual employment. Thus, the respondent-authorities should not have denied the maternity benefit including the maternity leave to the appellant under the provisions of the Act of 1961 in view of the ratio decided in case of **Dr. Kavita Yadav** (supra).
4. Learned Deputy Government Advocate relying upon the averments made in reply filed by the State, submits that upon joining of regular employee namely Dr. Sheela Verma, contractual employment of appellant came to an end automatically. As such, application for grant of maternity leave submitted by the appellant on 31.07.2026 was received much after her contractual employment came to an end. Dr. Sheela Verma joined in her post on 25.06.2026 and the appellant made an application for

maternity leave much thereafter on 31.07.2026. Hence, there was no illegality in not entertaining the said application and issuing one month termination notice dated 06.08.2026. Said termination notice was in accordance with the terms and condition of the contract. As such, no fault can be attributed to the respondent-authorities in the decision making process either for rejection of application of appellant for grant of maternity leave or for issuance of termination notice dated 06.08.2026. Learned Counsel further submits that the action taken by the respondent-authorities were in accordance with law and in terms of order of the contractual employment. Thus, the learned Single Judge has committed no error in dismissing the writ petition filed by the petitioner/appellant. Hence, present writ appeal merits no consideration and liable to be dismissed.

5. Heard learned counsel for the parties and perused the material available on record including the case law cited by learned counsel for the appellant. Also perused the reply with affidavit filed by the respondent-State received from the Registry and is taken on record.
6. There is no dispute with regard to the factual position as narrated by learned counsel for the appellant.
7. The sole question that arises for consideration as to whether the application filed by the appellant on 31.07.2026 for grant of maternity leave could have been rejected on the ground that the

regular employee had joined in the post, in which, the appellant was appointed on contractual basis ?

8. The regular appointee Dr. Sheela Verma joined the post on 25.06.2026, but admittedly the appellant was allowed to continue in her contractual post even thereafter at least till the notice of termination dated 06.08.2026 was issued. In the instant case, the application for grant of maternity leave was submitted on 31.07.2026. Thus, it can be safely concluded that the appellant submitted her application for maternity leave during continuance of her contractual service. In view of the ratio in case of **Dr. Kavita Yadav** (supra), the law is well settled that the application filed under the provisions of the Act of 1961 for maternity leave shall be granted even if the maternity leave goes beyond the contractual period. In case at hand, the appellant has filed the application for grant of maternity leave during tenure of her contractual employment, i.e, on 31.07.2026, therefore, her application could not have been rejected by the respondent-authority.
9. In view of the above, we are unable to agree with the observation made and conclusion arrived by learned Single Judge in order dated 08.09.2026 to the effect that there was no illegality in rejecting the application filed by the appellant for grant of maternity leave.
10. Accordingly, the order dated 08.09.2026 (Annexure A-1) passed by learned Single Judge in WPS No.6563/2026 as well as

termination notice dated 06.08.2026 (Annexure P-1 of writ petition), are hereby set-aside.

11. The appellant shall be granted maternity leave for a period of '180 days' commencing from the date of submission of her application, together with all maternity benefits to which she is entitled under the provisions of the Act of 1961.

12. With the aforesaid observation and direction, the writ appeal is allowed to the aforesaid extent.

Sd/-
(Santosh Sharma)
Judge

Sd/-
(Krushna Ram Mohapatra)
Chief Justice

Jamal.