

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.17559 of 2026

Decided on: 05.10.2026

Punya Devi

.....**Petitioner**

Versus

State of H.P. and Ors

.....**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Ms. Anuja Menta, Advocate vice Mr.
Karan Kapoor, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General
with Ms. Menka Raj Chauhan, Deputy
Advocate General.

Jyotsna Rewal Dua, Judge

Notice. Ms. Menka Raj Chauhan, learned
Deputy Advocate General, appears and waives service of
notice on behalf of the respondents.

Considering the grievance of the petitioner
raised herein, the case set up, documents appended
herewith and the decision relied upon by the petitioner,
there is no necessity to call for reply from the respondents.
The matter has accordingly been heard at this stage.

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

2. The case set up by the petitioner, as canvassed by her learned counsel is that petitioner gave birth to two daughters before joining the services of the respondent-State Government. Petitioner was appointed as Patwari and she joined as such on 15.11.2021. She gave birth to third child on 17.08.2026. Petitioner's grievance is against the decision of the respondents as contained in Annexure P-2 dated 11.09.2026, rejecting the maternity leave application of the petitioner, citing Rule 43 of the Central Civil Services (Leave) Rules, 1972. According to the respondents, a female Government servant with less than two surviving children can be granted maternity leave for a period of 180 days, however, the petitioner had prayed for maternity leave for the birth of her third child, which according to the respondents was impermissible.

3. Learned counsel for the petitioner places reliance upon ***Archana Sharma Vs. State of H.P. & Ors***². In the said case also, the petitioner therein had claimed maternity leave in respect of her third child, although the prayer for grant of leave was made for the birth of the third child for the first time in service. The Court, placing reliance upon the judgments of the Hon'ble Apex Court in

² CWP No. 10589/2025 decided on 30.07.2025

Deepika Singh Vs. Central Administrative Tribunal³

and **K. Umadevi Vs. Government of Tamil Nadu & Ors.**⁴

directed the respondents to grant maternity leave to the petitioner (therein), for the birth of her third child.

4. Letters Patent Appeal preferred by the respondents against *Archana Sharma*² though had been admitted by the Hon'ble Division Bench on 12.12.2025, however, the prayer made by the State for staying the operation of the judgment dated 30.07.2025, passed in *Archana Sharma*², has been dismissed. The order reads as under: -

"LPA No. _____ of 2025

Appeal be registered. Notice. Mr. Karan Kapoor, Advocate, accepts notice on behalf of the respondent.

Keeping in view the controversy in issue, the appeal is admitted.

CMP No..... of 2025 (CMPST No.65250 of 2025)

Keeping in view the fact that the respondent had given birth to two children prior to induction in service and the issue pertains to the third child, who was born, after joining service, we do not find any plausible reason to stay the operation of the impugned judgment dated 30.07.2025 passed in CWP No.10589 of 2025. Accordingly the application is dismissed."

³ (2023) 13 SCC 681

⁴ Civil Appeal No. 2526/2025 decided on 23.05.2025

In the instant case also, the petitioner as per the projected case, had not taken maternity leave for the birth of her first two children. The issue, therefore, pertains to the grant of maternity leave in respect of the third child born to the petitioner after joining service. Hence, petitioner's grievance is squarely covered by the judgment in *Archana Sharma*². Mere pendency of appeal against *Archana Sharma*² is no ground for not considering the case of the petitioner for grant of maternity leave in light of *Archana Sharma*², especially when *Archana Sharma*² has not been stayed by the Hon'ble Division Bench, rather, the interim application moved by the respondents-State, seeking stay of *Archana Sharma*² stands dismissed by the Hon'ble Division Bench. Accordingly, respondents No.2/competent authority is directed to consider and decide the case of the petitioner afresh for grant of maternity leave for the birth of her third child in accordance with law and in light of law laid down in *Archana Sharma*² within a period of two weeks, i.e. by 20.10.2026. Order so passed be also communicated to the petitioner. All consequences shall follow.

The writ petition to stand disposed of in the above terms, so also pending miscellaneous application(s), if any.

October 5, 2026
R.Atal

Jyotsna Rewal Dua
Judge