

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CWP No.26083 of 2012

Ritu Bala ..Petitioner

Versus

Union of India and others ..Respondents

2. CWP No.16234 of 2013

Vandana Verma ..Petitioner

Versus

Union Territory of Chandigarh and another ..Respondents

Date of decision: 19.05.2015.

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No

2. To be referred to reporters or not? Yes/No

3. Whether the judgment should be reported in the Digest? Yes/No

Present: Ms. Divya Godara, Advocate
for the petitioner in CWP No.26083 of 2012.

Ms. Shahina Dhiman, Advocate for
Mr. R.C. Sharma, Advocate for the petitioner
in CWP No.16234 of 2013.

Mr. Rakesh K. Nagpal, Senior Penal Counsel
for respondent No.1 – Union of India
in CWP No.26083 of 2012.

Mr. H.S. Sethi, Advocate
for respondents No.2 and 3 in CWP No.26083 of 2012 &
for respondents No.1 and 2 in CWP No.16234 of 2012.

Daya Chaudhary, J.

This judgment of mine shall dispose of two cases bearing

CWP No.26083 of 2012 and CWP No.16234 of 2013 as common question of law is involved in both the cases. However, for the sake of convenience, the facts are being extracted from CWP No.26083 of 2012.

The prayer made by the petitioner is for issuance of a writ in the nature of certiorari for modification of order dated 26.10.2012 (Annexure P-4), whereby, the petitioner has been granted benefit of maternity leave for a period of 84 days only i.e., from 15.10.2012 to 06.01.2013 whereas she is entitled for maternity leave for a period of 180 days. A further prayer has also been made for issuance of direction to respondent No.3 to grant maternity leave for 180 days to the petitioner.

The petitioner was initially appointed as TGT Science (Non-Medical) in Govt. Senior Secondary School, Sector-38 (West) on contractual basis under Sarva Shiksha Abhiyan Society, U.T. at consolidated remuneration of ₹17,600/- per month and thereafter, she was transferred to Govt. Model High School, Manimajra. During her service, she delivered a child on 14.10.2012 and was granted maternity leave for a period of 84 days i.e., from 15.10.2012 to 06.01.2013 on the basis of application submitted by her. Subsequently, the petitioner made a representation to the respondents to grant maternity leave for a period of 180 days instead of 84 days but her request was declined.

Learned counsel for the petitioner submits that the

petitioner eventhough a contractual employee is also entitled for maternity leave for a period of 180 days in accordance with the recommendations of 6th pay commission and also as per provisions of Rule 8.127 of Vol.-I Part-I of the Punjab Civil Services Rules (hereinafter referred to as the 'Rules') as all female Govt. employees are entitled to maternity leave with full pay for a period of 180 days as provided under Rule 8.23 of the 'Rules'. Learned counsel further submits that the case of the petitioner has not been considered whereas the petitioner is entitled for maternity leave for a period of 180 days in view of decision passed in **Reena Singla vs. State of Punjab and others, CWP No.5142 of 2013** decided on **16.05.2013**.

Learned counsel appearing for UT Chandigarh submits that the case of the petitioner is not covered by decision in **Reena Singla's case (supra)** as the petitioner is not governed by Punjab Civil Services Rules and the controversy in the present case is squarely covered by decision in **Baljeet Kaur and another vs. Union of India and others, CWP No.2268 of 2013** decided on **08.02.2013**.

Heard arguments of learned counsel for the petitioner as well as learned counsel appearing for UT Chandigarh.

Admittedly, the petitioner is working on contractual basis and her claim for maternity leave for the period of 180 days has been rejected and she has been granted maternity leave only for a period of 84 days. It is the argument of learned counsel for the petitioner that there can be no distinction between the contractual and regular

employees and on the basis of parity, the petitioner is also entitled for benefit of maternity leave for a period of 180 days. The petitioner has been granted maternity leave only for a period of 84 days being the contractual employee under Sarva Shiksha Abhiyan Scheme and as per provisions of the Maternity Benefit Act 1961 whereas, the petitioner being employee under the Centrally Sponsored Scheme would be governed by the provisions of Scheme of Central Government only. Learned counsel for the petitioner has not been able to substantiate or to refer to any statutory provision to show that the petitioner is also entitled to claim the maternity leave for a period of 180 days.

In **Baljeet Kaur's case (supra)**, same controversy was there and the petitioner in that case was given benefit of maternity leave for a period of 84 days only against her claim for maternity leave for a period of 180 days and said writ petition was dismissed on 08.02.2013. The judgment relied upon by learned counsel for the petitioner in **Reena Singla's case (supra)** is not applicable in the present case as State of Punjab as well as the Central Government have adopted the norms of 180 days to be the maternity leave, in case of employees, who are working in the State of Punjab under SSA Society. Although SSA Society was run by Central Government sponsored Scheme, but the employees covered under the said scheme would be entitled to the same benefits.

In the present case, the petitioner was working on

contractual basis under the Sarva Shiksha Abhiyan Society under the Scheme sponsored by Central Government. Neither it has been mentioned in the petition nor any argument has been raised to show that the provisions of maternity leave would be applicable by adopting the provisions of Punjab Civil Services Rules.

Learned counsel for the petitioner has even not been able to show that the provisions of the Maternity Benefit Act, 1961 would be applicable to the case of the petitioner.

Accordingly, I find no merit in the submissions made by learned counsel for the petitioner and the petitions being devoid of any merit are hereby dismissed.

19.05.2015
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(DAYA CHAUDHARY)
JUDGE