

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1308-2013 (O&M)

Date of Decision: August 23, 2016

Sarav Sikhiya Abhiyan Authority, Punjab

.....Appellant

Versus

Reena Singla and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr.Sanjeev Sharma, Sr.Advocate with
Mr.Shekhar Verma, Advocate
for the appellant.

Mr.Rajesh Bhardwaj, Addl.AG, Punjab.

Mr.H.C.Arora, Advocate
for the intervener.

Mr.R.S.Khaira, Advocate for
Mr.D.S.Randhawa, Advocate

.....

SURYA KANT, J.

The question that arises for consideration in this Letters Patent Appeal is whether respondent No.1, who is admittedly working on contract basis, is entitled to six months' maternity leave or such leave is to be restricted to 90 days in accordance with Section 5 of the Maternity Benefit Act, 1961 (for short, 'the 1961 Act')? Learned Single Judge has held respondent No.1 entitled to six months' maternity leave. However, when this appeal came up for preliminary hearing on 26.07.2013, the benefit of maternity leave were restricted to 90 days as an interim measure which has been of course availed by the respondent.

Learned counsel for the appellant appears to be right in contending that the question formulated at the outset is no longer *res integra* and has been effectively answered by a Coordinate Bench in **Kiran @ Dr.Kiran Bajaj vs State of Haryana and others**, 2013(1) PLR 842. The Division Bench has held that the employees working on daily wage/*ad hoc*/contract basis are entitled to maternity leave for 12 weeks in terms of Section 5(3) of the 1961 Act and they cannot claim parity with regular employees who are entitled to six months' maternity leave and grant of maternity leave to the ad hoc/contractual employees as per the 1961 Act has been held to be proper.

This is what precisely the authorities did in the case in hand also. We thus respectfully follow the distinction drawn by this Court in **Kiran @ Dr.Kiran Bajaj** (supra) between a daily wager/ contractual employees *viz-a-viz* the regular incumbent and hold the respondent entitled to maternity leave for 12 weeks as per Section 5(3) of 1961 Act.

For the reasons afore-stated, the appeal is allowed in part; order of learned Single Judge is set aside/modified and it is held that respondent No.1 is entitled to avail 12 weeks maternity leave in accordance with Section 5(3) of the 1961 Act. The payment, if not released so far, shall be released to her accordingly.

CM-4869-LPA-2013

This application has been moved by the applicant, who has been permitted to assist the Court as an Intervener.

She is also held entitled to 12 weeks maternity leave, i.e. on payment of full salary for 90 days in accordance with Section 5 of the 1961

Act. The due payment, if any, shall be released to her within a period of two months from the date of receipt of certified copy of this order.

(SURYA KANT)
JUDGE

August 23, 2016
meenuss

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No