

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 21985 of 2017
Date of Decision: 27.11.2017

Saroj Bala

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gopal Shamra, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

As already noticed in the order dated 13.10.2017, an order had been passed by the Director, Secondary Education, Haryana, on 06.10.2017, that the petitioner would be paid her salary for the time that she was not working, up-till 28.02.2017, treating her to be on maternity leave, with the order also stating that she had been granted leave up-till 21.05.2017, i.e. for the period 01.03.2017 till 21.05.2017, which is a period that she had actually worked during, for which as a matter of fact, maternity leave had earlier been refused.

This Court had directed, vide the aforesaid order, the Director Secondary Education, Haryana, to explain as to what he proposed to do with regard to the aforesaid period between 28.02.2017 and 21.05.2017, salary for that period in any case already having been paid to the petitioner, she being on duty during the said period, though she was entitled to maternity leave, even as per the Government instructions on the subject, for the said period, such leave being her

the ground that it was her 4th child).

Again, as noticed in the order dated 13.10.2017, as per Rule 44 of the Haryana Civil Services (Leave) Rules 2016, there is no condition imposed upon refusal of maternity leave beyond any particular number of children, and as such, the refusal of leave to the petitioner on the ground that she was giving birth to a 4th child, vide the impugned order dated 13.02.2017 (Annexure P-9), was contrary to the aforesaid Rule.

Consequently, though obviously it goes without saying that population in this country needs to be kept in check, however, the petitioner having been refused leave in the face of a statutory rule in her favour, and in any case with no maternity leave now grantable to her 11 months after the birth of her child, at best she can be granted damages for having been refused her right of six months leave. Eventually, though leave has been sanctioned for six months, however, she having worked for 03 of those 06 months, that 'empty exercise' of sanctioning leave for that period (01.03.2017 to 21.05.2017), is wholly farcical.

Consequently, this petition is disposed of with a direction to the respondents to pay the petitioner a sum of Rs. 50,000/- by way of damages and costs, within a period of three months from the date of receipt of a certified copy of this order.

November 27, 2017
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No.