

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5637 of 2019**

Dr. Dipti Shrivastava W/o Shri Ishwarchandra Deshmukh Aged About 32 Years Working As Ayurveda Medical Officer, Government Ayurveda Hospital Kunna, Block Chhindgarh, District Sukma Chhattisgarh. R/o Vimal Deep Plot No. 20, Green Park Amleshwar Durg, District Durg Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mahanadi Bhawan, Mantralay, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. District Ayurveda Officer South Bastar, District Dantewada Chhattisgarh.

--- **Respondent**

For Petitioner	:	Mr. Ramesh Nayak, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/08/2019

1. The challenge in the present writ petition is to the order (Annexure P/5) dated 23.05.2019 whereby the respondents have passed an order holding that since, the contract period of the petitioner itself was coming to an end during the period she was availing maternity leave and that the Maternity leave cannot be extended beyond that. Further that, she has to resume her duty immediately failing which her period of absence from duty will be treated as leave without pay.
2. According to the petitioner, vide the order dated 01.04.2019, the respondents have already taken a decision to grant extension of the contractual appointment of the petitioner for further one year, for the financial year 19-20, as such she would be in continuous employment till 31.03.2020 and therefore, the petitioner cannot be denied the advantage of the maternity leave for full 180 days.

3. Having heard the grievance of the petitioner, this Court is of the opinion that, the issue in this case is no longer res-integra as it has already been decided by this Court in the case of **Devshree Bandhe Vs. Chhattisgarh State Power Holding Company Limited and others in WPS 101 of 2017**. The said judgment has also been reiterated in **WPS No. 3365 of 2017** decided on 26.07.2017 in the case of **Dr. Vijay Laxmin Chandra Vs. State of Chhattisgarh and others**.
4. Though, The State Counsel opposes the petition on the ground that since, the substantive appointment of the petitioner was a contractual nature it cannot be extended beyond the contract period and the moment the contract is over, the benefits attached to the post of the petitioner also would get automatically discontinued. This argument of the State Counsel would not be sustainable for the reason that the State government itself had subsequently extended the contract period of the petitioner. Moreover, what cannot be lost sight of is the fact that it is by now a well settled position that so far as grant of maternity leave is concerned, the same has become a matter of right irrespective of the status of an employee, be it regular, contractual, or be it temporary. The right which has been guaranteed under the statute enacted for the same would have to be extended to one and all.
5. Under the circumstances, this Court is of the opinion that, the order (Annexure P/5) is bad to the extent of not granting the benefits attached to the maternity leave. Subject to verification of the fact that the order dated 01.04.2019 is still in force, the petitioner would be

entitled for the benefits of the maternity benefits which she would have been entitled for, had she been in continuous service.

6. The writ petition stands allowed and disposed off.

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha