

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP NO. 35806 OF 2019 (O&M)  
DATE OF DECISION : 12.12.2019

Arti Thakur

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ramneek Vasudeva, Advocate,  
for the petitioner.

Mr. Shivoy Dhir, Sr. Panel Counsel  
for Union of India.

ARUN MONGA, J. (ORAL)

1. The short controversy involved herein is, whether petitioner is entitled to grant of maternity leave in accordance with Maternity Benefit Act, 1961.
2. The entitlement of maternity leave envisages that an employee ought to have completed 80 days of service in a particular calendar year before according the benefit of maternity leave.
3. Challenge herein is to the order dated 25.11.2019 (Annexure P-11) vide which the request of the petitioner to grant her maternity leave has been declined. Claim of the petitioner is being resisted on the ground that petitioner had completed only 78 days of service prior to seeking the benefit of maternity leave. However, perusal of record reflects to the contrary. The petitioner, as on the date of submitting her application for maternity leave, had actually served for about 115 days.

4. Ostensible ground of denial is that petitioner had served for 78 days when her services were sought to be dispensed with. Owing to the interim orders passed by this Court, her termination was stayed and, therefore, she is not accorded the benefit of having served for the period after the passing of interim orders.

5. I see no reason as to why petitioner can be denied the benefit of maternity leave once it is established that she has served for more than 80 days. It is irrelevant whether 80 days period is completed owing to the interim orders passed by this Court. As long as she has completed the said period uninterruptedly, she ought to have been given the benefit of maternity leave.

6. In the premise, writ petition is allowed and impugned order dated 25.11.2019(Annexure P-11) rejecting the claim of the petitioner for maternity leave, is quashed. Respondents are directed to accord the benefit of maternity leave to the petitioner in accordance with rules *ibid* and pass fresh orders in this regard.

(ARUN MONGA)  
JUDGE

**December 12, 2019**

Jiten

Whether speaking/reasoned :  
Whether reportable :

Yes/No  
Yes/No