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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision : 27th September, 2019

+ **LPA 187/2018**

DR. ARTIBEN R THAKKARAppellant

Through: Mr. M.A. Niyazi with Mr. Manish
Kumar, Advocates

Versus

DELHI PHARMACEUTICALS SCIENCE & ...Respondents
RESEARCH UNIVERSITY & ANR.

Through: Ms. Zubeda Begum, Advocate for R-1.
Ms. Avnish Ahlawat, Standing Counsel
For R-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (ORAL)

1. The present appeal has been filed by the appellant under Clause X of the Letters Patent Act, assailing the order dated 08.02.2018 (hereinafter referred to as 'Impugned Order') passed by the learned Single Judge in W.P. (C) No. 10514 of 2017 whereby the petition of the appellant herein was dismissed.
2. The brief facts to be noticed for the disposal of the present appeal are that the appellant herein was selected by the Selection Committee of the respondent No.1 for the post of Associate Professor of DRA- Pharm Management-QA for a period of 11 months on contractual basis vide appointment letter dated 25.04.2016, the appellant joined the duty on 16.06.2016. The

contractual period came to an end on 15.05.2017. During the tenure of her contract, the appellant got married and conceived, and vide letter dated 08.03.2017 she sought maternity leave for a period of 12 weeks. The request of the appellant to avail twelve weeks of maternity leave was accepted and to accommodate her the contractual employment of the appellant was extended upto 30.06.2017. Thereafter, appellant's contractual employment was neither renewed nor any fresh contract was executed between the appellant and the respondent No. 1. Aggrieved by the decision of the respondent No. 1, the appellant filed a W.P.(C) No. 10514/2017 and sought maternity leave for a period of twenty six weeks along with her due salary for the said period under, The Maternity Benefits (Amendment) Act (hereinafter referred as Act) and the clarification of 12th April, 2017 issued by Ministry of Labour & Employment of Government of India. After considering the rival submissions of the parties, the learned Single Judge had rejected the plea raised by the appellant and dismissed the petition on lack of substance. Hence, the present LPA.

3. Mr. M. A. Niyazi, learned counsel for the appellant contended that the impugned order is liable to be set aside as the same is untenable in law and facts. Learned counsel further contended that every female employee whether permanent, temporary, contractual or daily wagers are entitled for maternity benefits as provided under the Act and placed reliance on "***Municipal Corporation of Delhi Vs. Female Workers (Muster Roll) and Anr***" reported in (2000) 3 SCC 224. He further contended that the benefits of twenty-six

weeks of maternity leave accrued to the appellant by way of amendment in the Act which came into force on 01.04.2014 and by a clarification of 12th April, 2017 which was issued by the Ministry of Labour & Employment of Government of India i.e. prior to the expiration of contractual period of the appellant. Learned counsel further contended that the intention of the legislature with respect to the benefits was not to make the same co-terminus with the employment and that the appellant is protected under the proviso to sub clause 3 of section 5 of the Act.

4. To substantiate his arguments, learned counsel for the appellant has placed reliance upon *W. P. No. 17004/205 titled as Priyanka Gujarkar Shrivastava Versus Registrar General & Another* passed by High Court of Madhya Pradesh at Jabalpur; *W. P. No. 54/2015 titled as Smt. Dr. Deepa Sharma Vs. State of Uttrakhand & Anr.* passed by High Court of Uttrakhand at Nainital and *CWP No. 6414/2014 titled as Neetu Bala Vs. Union of India and Ors.* passed by the Punjab and Haryana High Court.
5. Per contra, Ms. Zubeda Begum, learned counsel for the respondent submits that the impugned order does not suffer from the vices of illegality or perversity, as the appellant's contractual employment could not have been extended to a new academic session, and that no other person in place of the appellant has been employed. Learned counsel further stated that the benefits of the Act could not be extended to the appellant as there is no existing employer employee relationship between the appellant and the respondent No. 1, as she was hired on a contractual basis which expired on

30.06.2017, beyond which she is not entitled to the benefits provided by Respondent No. 1.

6. We have heard the learned counsel for the parties and perused the material available on record.
7. Before delving into the merits of the case, we find it appropriate to keep in view the salient fact that the Act is a beneficial piece of legislation intended to provide benefits to employees in case of maternity reliefs, and is enacted with a view to ensure social welfare. Such a beneficial piece of legislation has to be construed in its correct perspective so as to fructify the legislative intention underlying its enactment. Thus, the provisions of a beneficial legislation are to be interpreted in a manner which helps in achieving the object sought to be achieved by the legislature by enacting the said law as also advances the cause of justice.
8. Indisputably, the benefits of maternity are available to every female employee but the core issue before us for consideration is whether the appellant is entitled to such reliefs and benefits beyond her contractual employment.
9. It is a settled legal proposition that every female employee, whether on muster roll, *ad hoc* basis, temporary basis or contractual basis shall be entitled to maternity leave as enjoyed by a regular government employee. In the present case, the period of contract employment expired on 15.05.2017 and the appellant moved an application seeking maternity leave from 26th March, 2017. To accommodate her, the period of contract was further extended till 30.06.2017 and the appellant was granted maternity

leave for a period of about twelve weeks i.e. till 30.06.2017. The judgments relied upon by the learned counsel for the appellant are not applicable as in each case the relief of maternity leave and its benefits were granted to the female employee within the period of her contract period.

10. The appellant has also relied in sub clause 3 of Section 5 of the Act which reads as under:

“The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:] Provided that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death: [Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.”

11. The aforesaid Section entitles a working female to receive twelve weeks maternity leave, which has now been extended to twenty-six weeks vide notification dated 11.09.2008 issued by the Government of India, Ministry of Personnel, Public Grievance & Pension (Department of Personnel & Training). Such benefits of

maternity is available to all working women and under no circumstances they can be denied such benefits by their employers, but the benefits ceases with the termination of the employment. If the employee does not have a contract entitling her of a continued employment for a period of time and/or setting forth grounds necessary for termination, and if no discrimination is involved and the law is not violated an employer is entitled to discharge an employee at any time. A contractual job comes to an end with efflux of time and the person holding the post has no right to continue on the post and enjoy its benefits. In the instant case, the contract of the appellant expired on 30.06.2017 and thus she cannot take benefit of maternity leave beyond this period. Therefore, the prayer of the appellant for such benefits have ceased from the date of the termination of the contract i.e. 30.06.2017.

12. Thus, we do not find any illegality and infirmity in the impugned order rendered by the learned Single Judge. Accordingly, the present appeal being bereft of merit is dismissed.
13. Ordered accordingly.

SANGITA DHINGRA SEHGAL, J

G.S.SISTANI, J

SEPTEMBER 27 , 2019