

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223 (02 cases)

(1) CWP-14901-2017

Aanchal Sharma

...Petitioner

Versus

State of Haryana and others

....Respondents

(2) CWP-9963-2018

Gauri Dogra and others

...Petitioner

Versus

State of Haryana and others

....Respondents

Date of Decision :12.12.2022

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arvinder Arora, Advocate for the petitioner(s).

Mr. Rajesh Gaur, Addl. A.G. Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned two writ petitions are being disposed of as both the petitions involve same question of law and similar facts.

The grievance of the petitioners is that the petitioners, who

were working as Extension Lecturers were not extended the benefit of maternity leave while they were in service. Prayer of the petitioners is that appropriate direction be given to the respondents to grant the said benefit to the petitioners.

Learned counsel for the petitioners argues that the grant of maternity leave is being regulated under the Maternity Benefit Act, 1961 (in short '1961 Act') and keeping in view the provisions of the 1961 Act, which have been interpreted by the Hon'ble Supreme Court of India that the benefit of maternity leave is available even to the temporary/contractual employees, the respondent-State of Haryana have issued Instructions dated 04.08.2014 extending the benefit of maternity leave to the female employees of the Government of Haryana for six months.

The petitioners in the present petitions claimed the grant of maternity leave after the Instructions dated 04.08.2014 have been issued by Government of Haryana.

Learned counsel for the petitioners argues that as the petitioners were not working on regular basis but working as Extension Lecturers on contractual/temporary basis, the benefit of maternity leave was not extended to them by the respondents, which act on the part of the respondents is not only contrary to the 1961, Act as interpreted by the Hon'ble Supreme Court of India more than once but also to the Instructions dated 04.08.2014, which have been issued by the Government of Haryana hence, the respondents are under an obligation to grant the petitioner benefit of maternity leave for the period of six months under the Instructions dated 04.08.2014 issued by the Government of Haryana.

In the reply filed by the respondents, it has been mentioned that the claim of the petitioners for the grant of maternity leave was considered by the department but the same was rejected. Once, the prayer of the petitioners for the grant of maternity leave has been rejected by the respondents, no grievance can be made by the petitioners especially, when they were not working on regular basis.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question for the grant of maternity leave has already been decided by the Hon'ble Supreme Court of India in **Municipal Corporation of Delhi vs. Female Workers (Muster Roll) and another AIR 2000 S.C. 1274** wherein, the benefit of maternity leave is held to be maintainable even to the female employees, who are working on daily wage basis. Relevant paragraph of the judgment is as under:-

“11.The Parliament has already made the [Maternity Benefit Act](#), 1961. It is not disputed that the benefits available under this Act have been made available to a class of employees of the petitioner-Corporation. But the benefit is not being made available to the women employees engaged on muster-roll, on the ground that they are not regular employees of the Corporation. As we shall presently see, there is no justification for denying the benefit of this Act to casual workers or workers employed on daily wage basis.”

Keeping in view the settled principle of law, the petitioners who were working as Extension Lecturers are also entitled for the grant of benefit admissible to them under the 1961, Act.

Not only this, the respondents have issued Instructions dated 04.08.2014 extending the benefit of maternity leave to the employees who were engaged on contract basis. As per the said instructions, wherever a female worker has been engaged on contract basis up to 03 months, benefit of maternity leave for 06 months is admissible to her.

In the present case, nothing has been produced before this Court to point out that the claim of the petitioners is not covered under the said Instructions dated 04.08.2014 issued by the Government of Haryana for the grant of benefit of maternity leave. That being so, while rejected the claim of the petitioners for the grant of maternity leave in the year 2017, the respondents did not take into consideration the Instructions dated 04.08.2014 issued by the Government of Haryana hence, rejection of the claim of the petitioners for the grant of maternity leave by the respondents is not only contrary to the 1961, Act but also to the Instructions issued by Government of Haryana as well as the settled principle of law settled by the Hon'ble Supreme Court of India in **Municipal Corporation of Delhi (Supra)**.

Keeping in view the facts and circumstances of these petitions and the settled principle of law noticed hereinbefore, rejection of the claim of the petitioners for the grant of maternity leave by the respondents is quashed and the respondents are directed to grant the benefit of maternity leave for the period they are entitled for and the monetary benefit arising out of the said leave keeping in mind the 1961, Act as well as Instructions dated 04.08.2014 issued by the Government of Haryana and an appropriate order for the grant of the same be passed.

Let the present order be complied with within a period of 08 weeks from the receipt of copy of this order.

A photocopy of this order be placed on the file of connected case.

December 12, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No