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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20548-2023

Date of Decision:16.11.2023

SUNITA RANI

..... Petitioner

Versus

BHAKHRA BEAS MANAGEMENT BOARD AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. A.K. Walia, Advocate
for the petitioner.

Mr. Pranav Chadha, Advocate
for respondents No.1 to 3.

Mr. Inderpreet Singh Kang, AAG, Punjab
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

1. Short reply filed on behalf of respondents No.1 to 3 is taken on record. Registry is directed to tag the same at an appropriate place.

2. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of communication dated 15.12.2021 (Annexure P-3), order dated 28.01.2022 (Annexure P-6) and letter dated 05.07.2023 (Annexure P-11) whereby claim of the petitioner qua maternity leave has been declined.

3. Learned counsel for the petitioner *inter alia* contends that respondent has rejected application of the petitioner seeking maternity leave on the ground that maternity leave is not available for 3rd child. The petitioner at the time of joining service was already having two kids. The

3rd kid has born from 2nd marriage of the petitioner and after joining respondent-department. The case of the petitioner is squarely covered by the judgments of this Court in ***Ruksana Vs. State of Haryana and others 2011 (5) SLR 325, Jyoti Suhag vs. State of Haryana (CWP No.3652 of 2015 decided on 15.05.2015)*** and ***Smt. Chitra Rani vs. State of Haryana and others (CWP No.18236 of 2015, decided on 18.11.2015)***.

4. Per contra, learned counsel for respondents No.1 to 3 submits that a totally different opinion has been formed by Division Bench of Madras High Court in ***'Union of India Vs. Asiya Begum' 2020 LIC 3875*** as well as Uttarakhand High Court in ***'State of Uttarakhand Vs. Urmila Masih and others' 2019 (4) SCT 442***.

5. On being asked, learned counsel for respondents No.1 to 3 expressed his inability to controvert the fact that case of the petitioner is covered by Division Bench judgment as well as Single Bench judgment of this Court. The only contention of respondent is that judgments delivered by other Courts are later in time.

6. It is undisputed fact that Division Bench judgment of this Court was assailed before Hon'ble Supreme Court by State of Haryana and SLP came to be dismissed. A Division Bench of this Court and different Single Judge Benches of this Court have extended benefit as claimed by the petitioner. In view of principle of binding judicial precedent, propriety and consistency, this Court is bound to follow judgment of Division Bench and Single Bench judgments of this Court in preference to judgments of other High Courts. As case of petitioner is squarely covered by Division Bench as well as Single Bench judgments of this Court, the present petition deserves to be allowed and accordingly

allowed. The impugned orders are hereby set aside and respondents are directed to extend benefit of maternity leave to the petitioner.

(JAGMOHAN BANSAL)
JUDGE

16.11.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>