

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13500 of 2023**

Abhiniti @ Dr. Abhiniti Wife of Shushil Kumar Tiwari, In front of Saraswati Vidya Mandir, Road No.-2, Shivpuri, Damuchak, P.S.-Muzaffarpur, District-Muzaffarpur-842001.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Additional Chief Secretary, Department of Health, Bihar, Patna.
2. The Additional Chief Secretary, Department of Health, Bihar, Patna.
3. The Joint Secretary, Department of Health, Bihar, Patna.
4. The Principal Secretary, General Administrative Department, Govt. of Bihar, Patna.
5. The Special Officer on Duty, Department of Health, Bihar, Patna.
6. The Superintendent, Shree Krishna Medical College and Hospital, Muzaffarpur.

... .. Respondent/s

**Appearance :**

|                      |   |                                                         |
|----------------------|---|---------------------------------------------------------|
| For the Petitioner/s | : | Mr. Bipin Bihari, Advocate<br>Md. Ejaz Akhter, Advocate |
| For the Respondent/s | : | Mr. Anil Kumar Verma, AC to AAG 9                       |

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

2      27-06-2024                      The petitioner has approached this Court under Article 226 of the Constitution, praying for the following reliefs:-

*“(i) To issue a writ of Mandamus or any other appropriate writ/order/direction commanding and directing the respondents to pay the salary for availed maternity leave of the period from 01-06-2019 to 30-06-2019 and from 26-11-2019 to 23-04-2020 (Total 180 days) to this petitioner in the light of order circulated and issued through सं० सं०-17/Court 25/2022-1133(17) Patna, Dated*



*29-11-2022 under the signature of Respondent no.-2 which is due to this Petitioner against the respondents.*

*(ii) To direct the Respondent particularly The Superintendent Shree Krishna Medical College and Hospital, Muzaffarpur to produce the report with regard to the action taken on the application dated 21.01.2023 of this Petitioner furnished to the respondent no. 6 and further to provide the current status of the application.*

*(iii) Any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the present case.”*

2. The petitioner is a medical professional having specialised degree in M.S. (ENT). She was appointed and posted on tenure post of senior resident for a period of 03 years in ENT Department of Shri Krishna Medical College and Hospital, Muzaffarpur *vide* a notification dated 22<sup>nd</sup> January 2019 issued through memo no.- 52(17). Accordingly, the petitioner joined her service and took charge on 28<sup>th</sup> January 2019. The petitioner subsequently, availed maternity leave for the period from 01<sup>st</sup> June 2019 and from 26<sup>th</sup> November 2019 to 23<sup>rd</sup> April 2020, total being 180 days. Her maternity leave was duly approved by the respondent no. 05. Subsequently, after completion of maternity leave, she joined her tenure post, however she was denied her pay and allowances during the maternity leave.



3. The petitioner has annexed an order issued by the Health Department dated 29<sup>th</sup> November, 2022 in connection with another Medical Officer who also availed the maternity leave and claimed her salary and allowances during the period of leave. The matter travelled up to this Court and finally, the Health Department in consultation with the Finance Department opined that the said medical officer is entitled to get salary and all allowances admissible to her during her maternity leave. In case of the petitioner, the same being denied, thus, she filed the instant writ petition.

4. After, having heard the learned Advocate for the petitioner and the learned counsel for the State, this Court is of the view that the Department of Health is under obligation to take similar decision in the line of the order passed by the Department of Health on 29<sup>th</sup> November 2022 and the petitioner is entitled to get pay and all allowances admissible to him during the period of maternity leave subject to certain conditions that has been delineated in the said order and in accordance with the existing Government rule.

5. In such view of the matter, the instant writ petition is allowed on contest, respondents no. 04-06 are directed to settle the claim of the petitioner within 60 days from the date of



communication of this order. Further, the petitioner is at liberty to communicate the server copy of the order.

6. There shall however, be no order as to cost. Accordingly, the instant writ petition is allowed.

**(Bibek Chaudhuri, J)**

Suraj Dubey/-

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