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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-15238-1999 (O&M)
Date of Decision :24.07.2024

Meena Goyal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Sood, Advocate for the petitioner.

Mr. T.P.S. Chawla, Senior DAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance being raised by the petitioner is that she was appointed with the respondent-department on the post of Lecturer and while working as such, the petitioner applied for the grant of benefit of maternity leave, which benefit was not extended to her and for the said period, extra ordinary leave was granted to her instead, which act on the part of the respondents is contrary to the provisions of Maternity Benefits Act, 1961 (in short, ' 1961 Act'.)

Learned counsel for the petitioner submits that as per the settled principle of law under the Maternity Benefit Act, 1961 even a contractual employee is entitled for the grant of benefit of maternity leave, which benefit has been denied to the petitioner and extra ordinary leave has been sanctioned for the period in question, which otherwise is causing prejudice to the petitioner hence, the respondents be directed to release the



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salary for the period the petitioner remained on maternity leave.

Learned State counsel submits that at the relevant time, there were no provisions under the rules governing the service for the grant of benefit of maternity leave hence, the petitioner was only granted extra ordinary leave, keeping in view the facts and circumstances of the present case, hence, grievance of the petitioner is not maintainable.

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

It may be noticed that benefit under the 1961 Act are to be extended to every female employee, who needs the same at the relevant time. Even if, there were no provisions under the Punjab Civil Services Rules to grant the benefit then, the petitioner should have been extended the said benefit under the 1961 Act. The petitioner cannot be denied the benefit under the 1961 Act merely on the ground that there is a contrary rule in the rules governing the service or no such rule existed for the grant of benefit of maternity leave.

At this stage, learned counsel for the petitioner submits that the petitioner is also entitled for the grant of benefit of interest on the payment which are to be made under this order and an appropriate order directing the respondents to grant the benefit of interest be also passed.

Learned counsel for the respondent-State submits that there is no prayer for the grant of benefit of interest in the present petition hence, the same cannot be claimed or granted by this Court.

It is a settled principle of law settled by the Hon'ble Supreme

Court of India in **Civil Appeal Nos.6325-6326 of 2015 titled as Mrs. Akella**



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Lalitha vs. Sri Konda Hanumantha Rao and another, decided on 28.07.2022, that any relief which is not claimed, cannot be granted hence, in the absence of any prayer for the grant of interest in the present writ petition, the same cannot be granted.

Keeping in view the above, present petition is allowed. The respondents are directed to convert the extra ordinary leave as maternity leave and all the benefits admissible to a Government employee including the salary for the period in question be granted to the petitioner.

Let an appropriate order granting the benefit under the 1961 Act for the period in question for which, extra ordinary leave was extended to the petitioner be passed within a period of 08 weeks from the date of receipt of copy of this order.

No other argument has been raised.

Present petition stands allowed in above terms.

Civil miscellaneous application pending, if any is also disposed of.

July 24, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/Nor