

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9844 of 2025

Sachi Kumari Daughter of Shri Chandrabhan Singh, Wife of Ranajit Kumar Singh Resident of Village- Fatehpur, North of Durga Temple, P.S- Siwan Town, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna. Bihar
2. The Director, Higher Secondary, Education Department, Bihar, Patna. Bihar
3. The District Magistrate, Siwan Bihar
4. The Deputy Development Commissioner-cum-Chief Executive Officer-cum-Secretary, Zila Parishad, Siwan Bihar
5. The District Education Officer, Siwan. Bihar
6. The District Programme Officer (Establishment), Siwan. Bihar
7. The Principal, Gandhi Smarak Vidya Mandir Uchcha Vidyalay-Sah- Inter College, Pachrukhi District- Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramadhar Shekhar, Advocate
For the Respondent/s : Mr. Vikramadit, AC to SC-22

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 24-06-2025 Heard Mr. Ramadhar Shekhar, learned counsel appearing on behalf of the petitioner and Mr. Vikramadit, learned counsel for the respondents.

2. The petitioner in paragraph No. 1 of the present writ petition has sought, *inter alia*, following relief(s), which is reproduced hereinafter:

(i) For issuance of an appropriate writ, order or direction, particularly in the nature of writ of Mandamus, commanding and directing the concern respondent authorities to pay the due salary of May, 2020 to December, 2024 as well as current salary to the petitioner; which has been withheld by the respondent concern without any rhyme and reason.



(ii) Any other relief/reliefs to which the petitioner is entitled to in the facts and circumstances of the case.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner after seeking permission for maternity leave from 19.07.2021 to 13.01.2022 had joined her duty on 14.01.2022. The petitioner has not been paid due salary from May, 2020 to December, 2024, during which period, she had applied for the said maternity leave. The petitioner has not given reason that whether after sanction of her leave for the period 13.01.2018 to 01.01.2020 and after joining in May, 2020 till 19.07.2021, when she had applied for maternity leave, whether she was on duty or not. The petitioner has filed her representation before the Block Education Officer on 17.02.2025 and the same is pending.

4. In the peculiar facts of the case and in view of no explanation given by the petitioner, as to whether after having joined her duty after having gone on leave without pay for two years which according to her was sanctioned for the period 13.01.2018 to 01.01.2020 and thereafter she joined her duty.

5. So far as the period of maternity leave from 19.07.2021 to 13.01.2022 is concerned, in view of Government policy and mandate of law laid down by the Apex Court, the petitioner is entitled for the same and there is no reason not to



sanction the same. The petitioner has stated in paragraph No. 10 that she had joined her service after expiry of her maternity leave on 14.01.2022 and is aggrieved for due salary till December, 2024.

6.The law relating to the entitlement of the maternity leave under Rule 43 of the Central Services (Leave) Rules, 1972 was subject matter before the Hon'ble Supreme Court in the case of ***Deepika Singh Vs. Central Administrative Tribunal reported in (2023) 13 SCC 681***, wherein the issue relating to two surviving children of the appellant of the said case had already availed the maternity leave earlier, who were born out of the first marriage subsequently the appellant was second wife and the third child of the employee was first child of his second wife.

7. I find apt to refer to Paragraph No.24 of the said case, which is reproduced hereinafter as follows : -

“24. The fact that the appellant's spouse had two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child.....

8. The Apex Court referring to Rule 43 of the of the Central Services (Leave) Rules, 1972, which deals with the maternity leave only to a female government servant with less



than two children is required to be granted maternity leave. Furthermore, the provisions of Rule 43 (1) of of the Central Services (Leave) Rules, 1972 must be imbued with a purposive construction. The Apex Court after an exhaustive analysis of Section 5 of the Maternity Benefit Act has observed that the Act was enacted to secure women's right to maternity leave and to afford women with a much flexibility as possible to live an autonomous life, both as a mother and as a worker.

9. In the recent case of **K. Umadevi vs. Government of Tamil Nadu & Ors.** passed in **Civil Appeal No.2526 of 2025 (arising out of SIP (Civil) No.20178 of 2022)**, the Hon'ble Supreme Court in Paragraph No.33.4, has held as reproduced hereinafter : -

“33.4 This Court was categorical in declaring that the factum of appellant's spouse having two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child. Grant of child care leave to the appellant for the two children of her spouse from his previous marriage cannot be used to disentitle her to maternity leave under Rule 43 of the 1972 Rules. In the context of employment, child birth has to be construed as a natural incident of life and, hence, provisions for maternity leave must be construed in that perspective. Observing that when courts are confronted with such situations, they would do well to attempt to give effect to the purpose of the law in question rather than to prevent its application.”

10. This Court finds that the Statutory Right of the petitioner has been violated by the authorities of the Education



Department. In such circumstances, it would be proper for the petitioner to file a detailed representation before the Director, Higher Secondary, Education Department, Bihar. The Director, Higher Secondary Education is directed to call for the service particulars of the petitioner from the office of the Block Education Officer and the District Programme Officer well within a period of two weeks from the date of communication of this order and take a conscious decision in further four weeks on the basis of the records made available. The petitioner, if so desires, may also place the case before the Director, Higher Secondary, Education Department, Bihar.

11. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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