



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

Sr. No.109

CWP-3944-2025

Date of Decision: 06.03.2025

Asha

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Robin Singh Hooda, Advocate, for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a writ of *mandamus* directing the respondents to grant maternity leave of six months to the petitioner with immediate effect.

2. Briefly, as per facts on record, the petitioner was appointed as Stenographer on contract basis at D.C. rates in Community Medicine Department of Shaheed Hasan Khan Mewati Government Medical College, Mewat, on 19.04.2019. Keeping in view her work and conduct, the service contract was extended from time to time. Later, she was deployed in the College through Haryana Kaushal Rozgar Nigam Limited (for short, 'the Nigam') vide deployment letter dated 04.05.2022, Annexure P-2. She is a married lady having two children. As she was expecting her third child, she applied for and was granted maternity leave from 04.11.2024 to 26.01.2025, i.e., eighty-four days, vide office order dated 05.11.2024, Annexure P-3. She thereafter represented to the College seeking extension of maternity leave



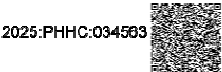
for six months vide representation dated 25.01.2025, Annexure P-4. Getting no response thereto, she filed the instant petition claiming entitlement to maternity leave for 180 days in terms of Rule 8.127(a) of the Punjab Civil Services Rules, Volume-I, Part-I (as applicable to the State of Haryana).

3. Learned counsel for the petitioner has contended that the petitioner is entitled to maternity leave of six months in terms of the law laid down by this Court in *Babita v. State of Haryana and others*, 2018(3) PLR 810.

4. Learned State counsel, on the contrary, contends that the petitioner has been deployed in the Medical College through the Nigam. Her request for maternity leave for the third child was received on 04.11.2024, conveying her expected date of delivery as 16.11.2024. In terms of the Deployment of Contractual Persons Policy, 2022 (for short, 'Policy of 2022'), applicable to all employees deployed through the Nigam, female contractual employees are entitled to maternity leave admissible under the Maternity Benefit Act, 1961 (for short, 'the Act of 1961'), which provides for twelve weeks' (84 days) maternity leave for the third child which has already been granted and availed of by the petitioner from 04.11.2024 to 26.01.2025. There is no provision for grant of maternity leave for six months, and the claim to that effect need not be considered.

5. Heard.

6. Undisputed facts on record are, the petitioner was deployed as Stenographer in the Medical College through the Nigam, and was granted maternity leave of twelve weeks (84 days) for her third child with effect from 04.11.2024 to 26.01.2025. The employees deployed through the Nigam are entitled to leave in terms of the Policy of 2022; clause 7.3. whereof reads as under:



7.3. Entitlement of Leave: The persons deployed under this policy shall, in addition to public holidays, restricted holidays and minimum one day off per week, be entitled to avail one day casual leave and one day medical leave during each calendar month subject to maximum 10 days casual leave and 10 days medical leave during a calendar year. Female contractual persons shall also be entitled to maternity leave admissible under the Maternity Benefits Act, 1961.

Accordingly, being female contractual employee she is entitled to maternity leave as per provisions of the Act of 1961, which clearly stipulates that maximum period of maternity benefit by a woman having two or more living children shall be twelve weeks. The relevant part of Section 5(3) of the Act of 1961 reads as under:

5. Right to payment of maternity benefits.—(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

Explanation. xxx xxx

(2) xxx xxx

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the date of her expected delivery:

Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

xxx xxx

(4) and (5) xxx xxx

7. Evidently, having been deployed through the Nigam and being governed under the Policy of 2022, the petitioner is entitled to maximum of

twelve weeks' maternity leave for the third child, which has already been



granted to her. Her claim for extension of leave up to six months on the strength of Civil Services Rules is not sustainable as, being contractual employee, her service is not governed under the Rules. Further, reliance placed upon *Babita* case (*supra*) is misplaced since the petitioner therein had not been granted maternity leave for the third child on the ground that the benefit was not meant for contractual employees. Allowing the petition, this Court held that there was no bar on grant of maternity leave for third child, nor was the benefit admissible only to regular employees. In the instant case, despite being a contractual employee the petitioner has already been given maternity leave of eighty-four days for her third child.

8. For the reasons recorded, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

06.03.2025
Maninder

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