



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

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CWP-17462-2002 (O&M)

Date of decision: 01.03.2025

Rupinder Kaur Sandhu

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner

Mr. Satnam Preet Singh, DAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. The petitioner admittedly, having a three years Diploma in Garment Technology from Punjab State Board of Technical Education and Industrial Training acquired with 1st Division in July, 1995 and an experience of two years, being eligible, was issued appointment letter for the post of Assistant Lecturer in Cutting (Ladies) in the pay scale of Rs.1500-2700, by Staff Selection Commission, Punjab and it was for on 89 days basis and until a regular hand was appointed.

2. She having applied was granted maternity leave from 22.9.1999 till 29.03.2000 for 180 days on birth of her first child vide order dated 28.12.1999, however, it was rejected vide order dated 01.01.2002 for the second child as was sought from 27.05.2002 to 27.09.2002, on the ground that female employees appointed on 89 days basis cannot be granted the same, leading to filing the present petition for quashing thereof, it being against the law laid down by Hon'ble the Supreme Court in **Municipal Corporation of Delhi vs. Female**



Workers (Muster Roll) and Another, (2000) 3 Supreme Court Cases 224, wherein it has been unequivocally held that the benefit under the Maternity Benefit Act is available to the employees who were even working on daily wage basis, relevant paras whereof read thus:

“ 10. Articles 42 and 43 provides as under :

"42 Provision for just and humane conditions of work and maternity relief - The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc., for workers - The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co- operative basis in rural areas."

28. The Industrial Tribunal, which has given an award in favour of the respondents, has noticed that women employees have been engaged by the Corporation on muster roll, that is to say, on daily wage basis for doing various kinds of works in projects like construction of buildings, digging of trenches, making of roads, etc., but have been denied the benefit of maternity leave. The Tribunal has found that though the women employees were on muster roll and had been working for the Corporation for more than 10 years, they were not regularised. The Tribunal, however, came to the conclusion that the provisions of the Maternity Benefit Act had not been applied to the Corporation and, therefore, it felt that there was a lacuna in the Act. It further felt that having regard to the activities of the Corporation, which had employed more than a thousand women employees, it should have been brought within the purview of the Act so that the maternity benefits contemplated by the Act could be extended to the women employees of the Corporation. It felt that this lacuna could be removed by the State Govt. by issuing the necessary notification under the Proviso to Section 2 of the Maternity Act. This Proviso lays down as under:

"Provided that the State Government may, with



the approval of the Central Government, after giving not less than two month's notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise."

29. It consequently issued a direction to the management of the Municipal Corporation, Delhi to extend the benefits of Maternity Benefit Act, 1961 to such muster roll female employees who were in continuous service of the management for three years or more and who fulfilled the conditions set out in Section 5 of the Act.

33. A just social order can be achieved only when inequalities are obliterated and everyone is provided what is legally due. Women who constitute almost half of the segment of our society have to be honoured and treated with dignity at places where they work to earn their livelihood. Whatever be the nature of their duties, their avocation and the place where they work; they must be provided all the facilities to which they are entitled. To become a mother is the most natural phenomena in the life of a woman. Whatever is needed to facilitate the birth of child to a woman who is in service, the employer has to be considerate and sympathetic towards her and must realise the physical difficulties which a working woman would face in performing her duties at the work place while carrying a baby in the womb or while rearing up the child after birth. The Maternity Benefit Act, 1961 aims to provide all these facilities to a working woman in a dignified manner so that she may overcome the state of motherhood honourably, peaceably, undeterred by the fear of being victimised for forced absence during the pre or post-natal period."

2. Relying on the aforesaid judgment, in **Shivani vs. State of Haryana**, 2018 SCC OnLine P&H 4282, the petitioner, working on contractual basis as Information-cum-Office-cum-Library Manager, was held entitled to the benefit of maternity leave.

3. This Court in **Reena Singla vs. State of Punjab**, 2013 SCC OnLine



P&H 26878, has observed and held that, “the claim of the petitioner is limited to the extent of grant of maternity leave of 180 days. It is true that under the Maternity Benefit Act, 1961, a woman is entitled to maternity leave of six weeks. However, there is no bar to the grant of benefits over and above the said period, as specified in Section 5 of the 1961 Act. The State of Punjab as well as the Central Government having adopted the norm of 180 days to be the maternity leave, the employees, who are working in the State of Punjab under the SSA Scheme, would be entitled to the same benefit of 180 days. As per Rule 8.137-A of the Punjab Civil Services Rules Volume-I Part-I and the Circular dated 19.10.2012 (Annexure P-5) issued by the Director Education Department (Secondary Education) Punjab, petitioner would be entitled to the grant of 180 days of maternity leave. Even under Rule 43(1) of Central Civil Services (Leave) Rules, 1972, maternity benefit has been now enhanced to 180 days from 135 days, which is in consonance with recommendations of the Sixth Central Pay Commission relating to maternity and child care leave. Government of India has itself, in its report submitted before the United Nations in its combined fourth and fifth periodic reports relating to Convention, on the Elimination of All Forms of Discrimination against Women, in para 27 stated that maternity leave for Government and public sector employees has been increased from 135 days to 180 days. In its Children's Alternative Report to UNCRC, again the Government of India has stated that the maternity leave for Government employees has been increased from 135 to 180 days. By the Government of West Bengal, Andhra Pradesh, Maharashtra, Tamil Nadu and Jharkhand, where the SSA Scheme is being run, 180 days of maternity leave is being granted to its employees. The scheme admittedly being a Central



Government sponsored scheme, the employees covered under the said scheme would be entitled to the same benefits as the employees of the Government of India as far as the maternity leave is concerned because the said benefit to an employee is a beneficial scheme, which is relatable to the public policy of the Government and in consonance with the Articles 39 and 42, Partly of the Constitution of India containing the *Directive Principles of State Policy*. There can be no discrimination on this score with regard to the grant of maternity benefits to a female employee especially when the conditions of the scheme clearly lays down that the service conditions should be similar to that of Government school teachers. The judgments relied upon by the counsel for the respondents only deal with a situation where no maternity leave was granted at all there the Court proceeded to grant of benefit under the Maternity Benefit Act, 1961 where six weeks of maternity leave stands provided and accordingly, the said benefit was granted by the Courts.”

4. Learned State counsel being unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law, in view of which, the present petition is disposed of in terms of **Municipal Corporation of Delhi** (supra).

5. Registry is directed to send a copy of the order to the petitioner.

(AMAN CHAUDHARY)
JUDGE

01.03.2025
M.Kamra

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