



CWP-19393-2023

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

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CWP-19393-2023 (O & M)
Date of decision: 31.07.2025

Harpreet Kaur

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. M.S.Bhatti, Advocate for
Ms. Munisha Sharma, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made is for quashing the letter/order dated 03.08.2023, Annexure P-8.

2. Learned counsel contends that the petitioner, who was empanelled as Clinic Assistant under Aam Aadmi Clinic, City Raman, District Bathinda, had applied for maternity leave w.e.f. 20.06.2023 to 20.08.2023, vide request letter dated 16.05.2023, to the Nodal Officer of the said clinic, which was forwarded by the Senior Medical Officer, for granting sanction, and on oral orders of the Civil Surgeon, she had proceeded on leave. After giving birth to a baby girl on 01.07.2023 and being discharged from the hospital on 03.07.2023, she requested to re-join

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but at that point in time not permitted, vide letter dated 04.08.2023, however, learned State counsel, on instructions from Dr. Nitesh Goyal, states that subsequently, she was allowed to re-join.

3. It would be apposite to refer Section 27 of the Maternity Benefit Act (in short, 'the Act'), which reads thus:

"27. Effect of laws and agreements inconsistent with this Act -

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act: Provided that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favourable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter which are more favourable to her than those to which she would be entitled under this Act."

4. A gainful reference can also be made to **Municipal Corporation of Delhi vs. Female Workers (Muster Roll) and another** (2000) 3 SCC 244, it has held that the Maternity Benefit Act covers contract workers, including those employed on daily wages.

5. In **Dr. Kavita Yadav vs. The Secretary, Ministry of Health and Family Welfare Department and others**, (2024) 1 SCC 421 wherein it has held that even fixed-term employees would be entitled to full maternity benefits under Section 5 of the Maternity Benefit Act, 1961 beyond their contractual tenure.

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6. The Maternity Benefit Act, 1961, is a beneficial piece of legislation designed to safeguard the rights of working women during pregnancy and motherhood enacted in consonance with the Articles 39 and 42 of the Constitution of India. To discriminate between them, on the premise of the nature of their engagement/appointment, it being regular or contract, would be violative of Article 14 of the Constitution of India whereby equality before the law and equal protection of laws is ensured.

7. In an overall conspectus, the present petition is allowed.

31.07.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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