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**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPS No. 7671 of 2026**

Pushpa Jaiswal D/o Shankar Lal Jaiswal, Aged About 34 Years Working As Guest Lecturer (Political Science) At Government Gundadhur P.G. College Kondagaon, Distt-Kondagaon (C.G.) R/o House No. 204, Bajar Para Distt-Kondagaon (C.G.)

**... Petitioner**

**versus**

**1 -** State Of Chhattisgarh Through - The Secretary, Department Of Higher Education Mahanadi Bhawan, Nawa Raipur, Distt - Raipur (C.G.)

**2 -** State Of Chhattisgarh Through - The Secretary, Department Of General Administration, Mahanadi Bhawan, Nawa Raipur, Distt-Raipur (C.G.)

**3 -** The Commissioner, Higher Education - Directorate, New Raipur, Distt-Raipur (C.G.)

**4 -** The Principal, Government Gundadhur Pg College Kondagaon, Distt-Kondagaon, (C.G.)

**... Respondents**

**(Cause title is taken from Case Information System)**

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| For Petitioner | : | Mr. Shubham Tiwari, Advocate. |
| For Respondents/State | : | Mr. Shahil Singh, Panel Lawyer |

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Order on Board**

**27/10/2026**

1. By way of the present writ petition, the petitioner seeks a direction to the respondent authorities to consider her representations dated 29.05.2026 and 05.08.2026 and grant all monetary benefits admissible during the period of maternity leave. The petitioner also seeks quashment of Clause 11.2 of the circular dated 17.07.2026 and a direction to the respondent authorities to issue a revised circular extending maternity leave benefits to Guest Lecturers in accordance with law.

2. Learned counsel for the petitioner submits that the petitioner has been working as a Guest Lecturer in the respondent College since 16.08.2024 and, after availing maternity leave, rejoined her duties on 19.08.2026. Learned counsel submitted that despite being entitled to monetary benefits during the period of maternity leave under Section 5 of the Maternity Benefit Act, 1961, the respondent authorities have failed to release the same despite representations dated 29.05.2026 and 05.08.2026. Learned counsel further submits that the denial of such benefits pursuant to Clause 11.2 of the circular dated 17.07.2026 is contrary to the provisions of the Act. Accordingly, the petitioner seeks release of the monetary benefits admissible during her

maternity leave and quashment of the impugned clause of the circular.

3. On the other hand, learned counsel for the State submits that since the petitioner was not a regular employee she cannot claim benefits under the Maternity Benefit Act, 1961, as such, she is not entitled to get monetary benefit.

4. I have heard learned counsel for the parties and perused the pleadings and documents appended thereto.

5. Before proceeding further it would be noteworthy to mention here that a woman employee, at the time of advanced pregnancy cannot be compelled to undertake hard labour as it would be detrimental to her health and also to the health of the foetus. It is for this reason that it is provided in the Maternity Benefit Act, 1961 that she would be entitled to maternity leave for certain periods prior to and after delivery. I have gone through the different provisions of the Act, but I do not find anything contained in the Act which entitles only regular women employees to the benefit of maternity leave and not to those who are engaged on casual basis or on muster roll on daily wage basis or the employees engaged as guest.

6. In fact, the Act, 1961 was enacted to secure women's right to pregnancy and maternity leave and to afford women with as much flexibility as possible to live an autonomous life, both as a mother and as a worker, if they so desire.

7. The Hon'ble Supreme Court in the matter of **Dr. Kavita Yadav vs. Secretary, Ministry of Health and Family Welfare Department and others reported in (2024) 1 SCC 421** held in paras 6, 7, 8, 9, 10, 11, 14 and 15 as under:

> ""6. The main question which falls for determination in this appeal is as to whether the maternity benefits, as contemplated in the 1961 Act, would apply to a lady employee appointed on contract if the period for which she claims such benefits overshoots the contractual period.
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> 7. Ms. Rachita Garg, learned counsel appearing for the respondentemployer, sought to defend the reasoning given in the judgment under appeal. Her main argument is that once the term or tenure of the contract ends, there cannot be a notional extension of the same by giving the employee the benefits of the 1961 Act in full, as contemplated in Section 5(2) thereof. It is her submission that any benefits that the appellant would be entitled to ought to be within the contractual period.
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> 8. We have reproduced earlier in this judgment the provisions of Section 12(2)(a) of the 1961 Act. The aforesaid provision contemplates entitlement to the benefits under the 1961 Act even for an employee

who is dismissed or discharged at any time during her pregnancy if the woman, but for such discharge or dismissal, would have been entitled to maternity benefits or medical bonus. Thus, continuation of maternity benefits is in built in the statute itself, where the benefits would survive and continue despite the cessation of employment. In our opinion, what this legislation envisages is entitlement to maternity benefits, which accrues on fulfillment of the conditions specified in Section 5(2) thereof, and such benefits can travel beyond the term of employment also. It is not co-terminus with the employment tenure.

9. A two Judge Bench of this Court in the case of Municipal Corporation of Delhi vs Female Workers (Muster Roll) & Anr. [(2000) 3 SCC 224], while dealing with a similar claim by female muster roll workers who were employed on daily wages, opined that the provisions relating to maternity benefits in the 1961 Act would be applicable in their cases as well. That dispute had reached this Court through the Industrial Tribunal and the High Court. Before both these fora, the Union espousing the cause of the female workers was successful. In that case, point of discrimination was highlighted as regular

women employees were extended the benefits of the said Act but not those who were employed on casual basis or on muster roll on daily wage basis. This Court observed, in paragraph 27 of the said judgment:

> "27. The provisions of the Act which have been set out above would indicate that they are wholly in consonance with the Directive Principles of State Policy, as set out in Article 39 and in other articles, specially Article 42. A woman employee, at the time of advanced pregnancy cannot be compelled to undertake hard labour as it would be detrimental to her health and also to the health of the foetus. It is for this reason that it is provided in the Act that she would be entitled to maternity leave for certain periods prior to and after delivery. We have scanned the different provisions of the Act, but we do not find anything contained in the Act which entitles only regular women employees to the benefit of maternity leave and not to those who are engaged on casual basis or on muster roll on dailywage basis."

10. Broadly, a similar view is reflected in a more recent judgment of this Court in the case of Deepika

Singh vs Central Administrative Tribunal And Others [(2022) 7 SCR 557]. Though this decision dealt with Central Civil Services (Leave) Rules, 1972, in relation to maternity leave and the 1961 Act was not directly applicable in that case, this Court analysed certain provisions of this Act to derive some guidance on a cognate legislation.

11. This Court observed in the case of Deepika Singh (supra):

> “19. Subsection (1) of Section 5 confers an entitlement on a woman to the payment of maternity benefits at a stipulated rate for the period of her actual absence beginning from the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. Sub-section (3) specifies the maximum period for which any woman shall be entitled to maternity benefit. These provisions have been made by Parliament to ensure that the absence of a woman away from the place of work occasioned by the delivery of a child does not hinder her entitlement to receive wages for that period or for that matter for the period during which she should be granted

leave in order to look after her child after the birth takes place.

20. The Act of 1961 was enacted to secure women's right to pregnancy and maternity leave and to afford women with as much flexibility as possible to live an autonomous life, both as a mother and as a worker, if they so desire. In Municipal Corporation of Delhi v. Female Workers (Muster Roll), a twojudge Bench of this Court placed reliance on the obligations under Articles 14, 15, 39, 42 and 43 of the Constitution, and India's international obligations under the Universal Declaration of Human Rights 1948 and Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women to extend benefits under the Act of 1961 to workers engaged on a casual basis or on muster roll on daily wages by the Municipal Corporation of Delhi. The Central Civil Services (Leave) Rules 1972, it is well to bear in mind, are also formulated to entrench and enhance the objects of Article 15 of the Constitution and other relevant constitutional rights and protections."

14. Our independent analysis of the provisions of the 1961 Act does not lead to an interpretation that the maternity benefits cannot survive or go beyond the duration of employment of the applicant thereof. The expression employed in the legislation is maternity benefits [in Section 2(h)] and not leave. Section 5(2) of the statute, which we have quoted above, stipulates the conditions on the fulfilment of which such benefits would accrue. Section 5(3) lays down the maximum period for which such benefits could be granted. The last proviso to Section 5(3) makes the benefits applicable even in a case where the applicant woman dies after delivery of the child, for the entire period she would have been otherwise entitled to. Further, there is an embargo on the employer from dismissing or discharging a woman who absents herself from work in accordance with the provisions of the Act during her absence. This embargo has been imposed under Section 12(2)(a) of the Act. The expression "discharge" is of wide import, and it would include "discharge on conclusion of the contractual period". Further, by virtue of operation of Section 27, the Act overrides any agreement or contract of service found inconsistent with the 1961 Act.

> 15. In our opinion, a combined reading of these provisions in the factual context of this case would lead to the conclusion that once the appellant fulfilled the entitlement criteria specified in Section 5(2) of the Act, she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract. Any attempt to enforce the contract duration term within such period by the employer would constitute "discharge" and attract the embargo specified in Section 12(2)(a) of the 1961 Act. The law creates a fiction in such a case by treating her to be in employment for the sole purpose of availing maternity benefits under the 1961 Act."

8. It is not the case of the respondents herein that the job of the petitioner is not similar to that of a regular Lecturers or that she is unable to perform the duties of a regular Lecturer. It is claimed that the petitioner though is appointed as Guest Lecturer, she is performing same duties and responsibilities undertaken by a regular Lecturer. Therefore, the respondent authorities are not justified in holding that the petitioner who is working as Guest Lecturer is not entitled for monetary benefit.

9. Considering the aforesaid aspect of the matter in the light of orders passed by the Supreme Court, it is abundantly clear that the salary for the period when the petitioner had gone to maternity leave cannot be denied on the ground that she was

serving as a Guest Lecturer. Further considering the case that once the petitioner was granted maternity leave, the respondents are under obligation to release the salary of the petitioner forthwith in respect of the period when she had gone for maternity leave.

10. Accordingly, the respondents are directed to take an appropriate decision in accordance with rules and guidelines, as the petitioner is entitled for maternity leave and pass an appropriate orders in respect of petitioner's claim for unpaid salary for the period she had gone for maternity, at the earliest preferably within a period of three months from the date of receipt of a copy of this order.

Sd/-

**(Bibhu Datta Guru)**
**Judge**

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