
(2015) 07 UK CK 0003

In the Uttarakhand High Court

Case No : Writ Petition S.S. No. 1468 of 2015

Meenaxi Khani

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 28-07-2015

Acts Referred:

Maternity Benefits Act, 1961 — Section 5(2)

Citation : (2015) 146 FLR 1096

Hon'ble Judges : S.K. Gupta, J

Bench : Single Bench

Advocate : Alok Dalakoti, for the Appellant; Vikas Pandey, Advocates for the Respondent

Final Decision : Allowed

Judgement

S.K. Gupta, J—Having heard learned Counsel for the petitioner as well as learned State Counsel, it transpires that the petitioner Smt. Meenaxi Khani was initially appointed on 9.8.2011 as a Lecturer (Computer Science) on contractual basis at Government Polytechnic College, Kotabagh, District Nainital. Thereafter, she was transferred from the said College to Government Polytechnic College, Kashipur, District Udham Singh Nagar and since then, she is working there. Petitioner applied for grant of maternity leave from 2.3.2015 to 30.6.2015 but the respondents did not pay any heed on her representation and she has been blessed with a child on 12.3.2015.

2. Learned Counsel for the petitioner has taken this Court to the decision of Co-ordinate Bench of this Court dated 8.7.2013 rendered in WPSS No. 826 of 2012, Indu Joshi v. State of Uttarakhand, wherein reference has been made to the Hon'ble Apex Court's judgment rendered in Municipal Corporation of Delhi Vs. Female Workers (Muster Roll) and Another, AIR 2000 SC 1274 : (2000) 85 FLR 185 : (2000) 3 JT 13 : (2000) 1 LLJ 846 : (2000) 125 PLR 371 : (2000) 2 SCALE 269 : (2000) 3 SCC 224 : (2000) SCC(L&S) 331 : (2000) 2 SCR 171 : (2000) 2 UJ 800 : (2000) AIRSCW 969 : (2000) 2 Supreme 179 , wherein it was held that

the Maternity Benefit Act makes no distinction between the permanent, temporary or contractual employees and such benefits, as envisaged, are applicable to all. That apart, section 5(2) of the said Act contemplates that maternity benefits are applicable for a worker who has worked for 80 days in an establishment of employer. In this regard, learned Counsel has drawn the attention of this Court towards the fact that petitioner has worked from 9.8.2011 to 19.1.2012 i.e. five months and ten days at Government Polytechnic College, Kotabagh, District Nainital and thereafter, she worked from 21.2.2012 to 26.6.2012 i.e. four months and five days at Government Polytechnic College, Kashipur, District Udham Singh Nagar. This way, petitioner qualifies the minimum work period of 80 days. In view of what has been stated above, instant writ petition is hereby allowed. Respondents are hereby directed to sanction the maternity leave to the petitioner with effect from 2.3.2015 to 30.6.2015, on the same terms and conditions, which regular employees are getting in the State.