
(2013) 07 P&H CK 0525
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13647 of 2013

Paramjit Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Punjab Civil Services Rules — Rule 8.127(a)

Citation : (2013) 07 P&H CK 0525

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Kamal Narula, for the Appellant;

Final Decision : Disposed Off

Judgement

Tejinder Singh Dhindsa, J.—The petitioner is serving as a Teacher under the Sarv Shiksha Abhiyan Authority Punjab on contractual basis since the year 2009. The petitioner had applied for maternity leave and the same was granted for a period of 90 days" on 07.03.2013. A male child was born to the petitioner on 02.05.2013. The pleaded case of the petitioner is that as per doctor"s advise and keeping in view the health condition of the child, she had submitted an application dated 21.06.2013 (Annexure P-5) for the grant of further 90 days" towards maternity leave. The instant writ petition has been filed in terms of raising a grievance that till date no final order has been passed on the application dated 21.06.2013 (Annexure P-5), whereas, as per the relevant rules governing the grant of maternity leave, she is entitled to a leave of 180 days". Counsel for the petitioner has further placed reliance upon judgment dated 16.05.2013 passed by this Court in CWP No. 5142 of 2013, whereby teachers appointed under Sarv Shiksha Abhiyan Authority have been held entitled to the grant of maternity leave under the Punjab Civil Services Rules Volume I, Part I and in that particular case, the petitioner was held entitled to 180 days" of maternity leave.

2. The relevant provision as contained in Rule 8.127 (a) of the Punjab Civil Services Rules, Volume-I, Part-I, reads in the following terms:

8. 127 (a) The competent authority under Rule 8.23 may grant to a female Government employee maternity leave on full pay for a period not exceeding 180 days without the necessity of production of a medical certificate and the grant of such a leave, shall be so regulated that the date of confinement falls within the period of this leave and the leave so granted shall not be debited against the leave account of the female Government employee:

Provided that no leave under this sub-rule shall be granted to a female Government employee who has three or more living children.

Note. Extension in leave, if any, on the expiry of maximum period of 180 days maternity leave, shall be permissible by the grant of leave of the kind due."; and Note 1. During such period she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave. The term "pay" in this rule includes officiating pay: provided the authority sanctioning the leave certifies that the Government employee would have continued to officiate had she not proceeded on leave.

Note 2. Where a female Government employee has less than two living children, maternity leave under this rule may also be granted in cases of miscarriages and abortion including abortion induced under the Medical Termination of Pregnancy Act, 1971, subject to the condition that the leave does not exceed six weeks and the application for leave is supported by a certificate from a registered Medical Practitioner and, in case of doubt, certificate of a Principal Medical Officer or Assistant to Civil Surgeon or Gazetted Medical Officer may be called for:

Provided that a female Government employee having two or more children shall not be entitled to avail of this concession, but if required, can be sanctioned leave of the kind due, on the production of a medical certificate.

3. A bare reading of the Rule makes it clear that the Competent Authority under Rule 8.23 may grant to a female employee maternity leave with full pay for a period not exceeding 180 days" without the necessity of production of the medical certificate.

4. Even though, the claim for grant of maternity leave cannot be construed as an absolute right but still the petitioner is certainly entitled to a fair consideration as regards such a claim. Admittedly, the petitioner was granted maternity leave for a period of 90 days" on 07.03.2013. Thereafter, she has submitted an application dated 21.06.2013 (Annexure P-5) for further leave for maternity of 90 days" i.e. a total of 180 days". It is the categoric stand of the counsel for the petitioner that till date no final order on the application has been passed. The respondent-authorities are certainly obligated to consider the same and to take a final view on the issue.

5. Notice of motion.

6. On the asking of the Court, Ms. Sudeepti Sharma, DAG, Punjab accepts notice. A complete copy of the writ paper book has been supplied to the learned State

counsel.

7. In the light of the issue raised in the present writ petition, the writ petition is being disposed of at the initial stage itself without even calling any reply by the State.

8. The writ petition accordingly, is disposed of with a direction to respondent No. 4 to consider the application dated 21.06.2013 (Annexure P-5) submitted by the petitioner for the grant of additional maternity leave for a period of 90 days". A final order on the application dated 21.06.2013 (Annexure P-5) be passed strictly in accordance with the relevant rules on the subject. It is further clarified that nothing contained in this order shall be taken as an observation on the merits of the claim raised by the petitioner. The final order be passed within a period of 10 days" from today.

9. Disposed of. A copy of this order be given to the counsel for the State under the signatures of the Bench Secretary.