



Tax alert: Rajasthan High Court upholds claim of maternity leave for 180 Days

17 September 2024

The High Court of Rajasthan has recently held that a woman employee should be provided maternity benefits as mandated by law. The petitioner, employed as a conductor, requested 180 days of maternity leave but was granted leave for only 90 days by the employer. The Court's ruling sheds light on the legal standards and entitlements in such scenarios.

In a nutshell



Issue involved

The petitioner applied for maternity leave of 180 days. However, leave of only 90 days was sanctioned by the employer, based on their internal regulations .

The issue before the Court was whether the statutory requirement of granting 180 days of maternity leave would override the internal policy of an RSRTC



Relevant provisions

- Reliance was placed on
- Maternity Benefit (Amendment) Act, 2017 ('the Amended Maternity Act') whereby the maternity leave was increased from 12 to 26 weeks (180 days).
 - Various judicial precedents of Apex court
 - Articles of the Constitution of India.



Final Verdict:

The Hon'ble Court held that sanctioning of 90 days leave was discriminatory in nature.

The respondent employer's regulations do not overrule the provisions of the amended Maternity Act.

The Court held that employer must grant 180 days of maternity leave to the petitioner, adjusting for any leave already taken or provide 90 days' salary as compensation if the leave cannot be granted.



Conclusion:

The Hon'ble Court also directed the Government of India and the Government of Rajasthan, to issue necessary orders and instructions to all sectors to make suitable amendments in their provisions for grant of 180 days of maternity leave to the female employees.



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Background:

- The petitioner was employed as a conductor with Rajasthan State Road Transport Corporation (RSRTC / employer). She requested her employer for 180 days of maternity leave following the birth of her child.
- Despite her application, the employer granted only 90 days of leave, which led to claims of discrimination. The petitioner's counsel argued that similar employees in other services receive 180 days of maternity leave, highlighting that such non-grant of leave of 180 days was discriminatory in nature.
- The contention arose against the backdrop of Regulation 74 of the RSRTC Employees Service Regulations, 1965 ('the respondent employer's regulations'), which stipulates a 90-day leave entitlement for maternity purposes. The regulation was in line with the Section 5 of the Maternity Act (before amendment in 2017).

Relevant provisions in brief:

- Section 5 of the Maternity Act states that a woman could take twelve weeks of leave before and after delivery.
- Responding to several recommendations over years, the Maternity Benefit (Amendment) Act, 2017 ('the Amended Maternity Act') was enacted on 27 March 2017, increasing the maternity leave from 12 to 26 weeks (180 days) to better support working women.

Principles enunciated in judicial precedents:

While delivering this ruling¹, the High Court relied on various judicial precedents² enunciating the principles listed below:

- Ensuring the health of both the mother and her newborn is vital, not just for the child's development but for the nation's future.
- Maternity benefits under the Act should be extended to all women employees (i.e., both regular employees and muster-roll employees).
- Maternity relief is not just statutory entitlement but fundamental right under Article 21 of the Constitution of a female employee.
- Maternity leave cannot be compared or equated with any other leave and cannot be denied under any circumstances.
- No distinction can be made between a natural mother, a biological mother, and a mother who has a child through surrogacy.
- Becoming a mother is a natural part of a woman's life. Employers should be considerate and supportive of the physical challenges working mothers face, both during pregnancy and while caring for a newborn.

Decision of the HC:

- Maternity benefits are recognized as fundamental rights under Article 21 of the Constitution, essential for a woman's dignity and identity. The right to bear a child and not to be obstructed in this choice are protected by the Constitution.

¹ In the case of Minakshi Chaudhary v. Rajasthan State Road Transport Corporation and Anr (S.B. Civil Writ Petition No. 15769/2016)

² Municipal Corporation of Delhi v. Female Workers (Muster Roll) & Anr (2000) 3 SCC 224

² Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161

² Swornalata Dash v. State of Odisha & Ors, 2023 SCC Online Ori 5095

² Chanda Keswani v. State of Rajasthan, 2023 SCC Online Raj 3274

- Limiting maternity leave to 90 days at RSRTC, while other departments provide 180 days, is discriminatory. It violates the principle of equal opportunity and fundamental rights of women employees.
- The Court emphasized that maternity leave is vital for supporting women's roles as working mothers, aligning with Article 15(3) for special provisions and Article 42 for humane conditions.
- Regulation 74 of respondent employer's regulations which provides for 90 days of maternity leave, is outdated. The Amended Maternity Act mandates 180 days of leave, and it overrules the old regulation.
- RSRTC must grant 180 days of maternity leave to the petitioner, adjusting for any leave already taken or provide 90 days' salary as compensation if the leave cannot be granted.
- Further it is recommended to update Regulation 74 of the respondent employer's regulations.
- The Court also directed the Government of India and the Government of Rajasthan to ensure all sectors comply with the 180-day maternity leave provision.

Comments:

The High Court's decision affirms that maternity benefits are fundamental rights essential to a woman's dignity and identity, as protected under Article 21 of the Constitution.

This ruling aligns with international standards and constitutional principles, urging all organisations to revise their policies. It serves as a critical reminder for both public and private sectors to uphold modern legal standards and support women's rights in the workplace.

This ruling will set a precedent for organisations to uphold the equitable maternity benefits outlined in the Amended Maternity Act, ensuring that all women employees receive their rightful entitlements. Therefore, organisations would do well to review their policies and ensure that the benefits are aligned or better than that mandate by the statute.

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