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KARNATAKA HC ON WORK-FROM-HOME BENEFITS POST MATERNITY LEAVE

A. Introduction

High Court (HC) of Karnataka, in the *Prachi Sen* case,¹ held that the work-from-home (WFH) benefit may be granted to an employee who has exhausted maternity leave, only if the nature of work assigned to her permits working from home.

B. Brief Facts

1. Petitioner, Prachi Sen (**Sen**), was employed as a Senior Executive Engineer at respondent, Semiconductor Technology and Applied Research Centre (**STARC**), a society of Defence Research and Development Organisation (**DRDO**) of the Ministry of Defence. Sen, after delivery, availed maternity leave in 2020 and 2021. Following this, she was on personal leave till April 2021.
2. She submitted that during the second wave of Covid-19 and the consequent lockdowns declared by the State Government (**SG**), she and other employees were granted the privilege of working from home. STARC agreed that Sen's attendance up to May 23, 2021, was regularised.
3. However, when Sen did not commence her duties after exhausting her sanctioned leave, a notification was issued to the effect that Sen's absence from duty without leave, and overstay without approved leave, would be viewed as 'unauthorised absence'. There was also possibility of disciplinary action against Sen for 'wilful absence'.
4. Sen contended that benefits must be conferred as per the Maternity Benefit Act, 1961 (**MBA**) and the two official memoranda issued by the Central Government (**CG**), which provide for grant of childcare leave to women employees having children below the age of 18 years.

C. Sen's Contentions

1. The provisions of the MBA apply to her. Per Section 5(5),² she should be allowed to WFH after the duration of maternity leave.
2. Further, the notifications issued by the CG also direct all public sector undertakings, which included STARC, to make provisions to allow lactating mothers to WFH in view of Covid-19.
3. Thus, it was the duty of STARC to provide for childcare leave and permit her to WFH until declared otherwise by the SG/CG.

¹ *Prachi Sen v. Ministry of Defence, Government of India and Ors.* (03.03.2022 - MANU/KA/1038/2022).

² Section 5(5) of the MBA: "In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree."

D. Order & Analysis

The HC:

1. Observed that Sen has not been able to point to a specific law or rules that would mandate STARC to grant childcare leave facility that is available to CG employees.
2. Noted that due to the sensitive and complex nature of the work carried out by Sen, she cannot be permitted to WFH (emphasis added):
“The employees working with [STARC] are involved in research work which is both sensitive as well as complicated. Sensitive, in the nature of the work done, in the sense that the research is for the benefit of the Government of India which uses the facility in the defence fields and the research work will not be divulged to the public. This itself would prove that the nature of work assigned to the petitioner cannot be carried on from home. The respondents are also on record, in their statement of objections, that even during the period of lockdown, the top officials from the cadre of Deputy managers have been functioning from the premises itself. [...] Though reference is made to Section 5(5) of the Act, 1961, it is evident from the said provision that maternity benefits such as work from home after availing the maternity benefit could be given only in case where the nature of work assigned to the women is such that it is possible for her to work from home.”
3. Expressed that the STARC’s position that Sen was on for unauthorised absence, and wilful disobedience, must be reviewed. Given the fact that during the period of delivery, and post-delivery, there were two serious waves of Covid-19, with prolonged periods of lockdown, STARC was directed to take a sympathetic view towards Sen.

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