



Kajol Pokkbriyal
Associate

ALLAHABAD HIGH COURT ON APPLICABILITY OF MATERNITY BENEFIT POST CHILDBIRTH

A. Introduction

The Allahabad High Court (“**HC**”) on 14.03.2023 in the *Saroj Kumari* case,¹ addressed the question on whether a woman employee can claim maternity benefit under the Maternity Benefit Act, 1961 (the “**Act**”) after the birth of her child. It relied on the Supreme Court (“**SC**”) decision² to draw a distinction between the entitlements of maternity leave (“**ML**”) and child-care leave (“**CCL**”).

B. Brief Facts

1. Saroj Kumari (“**Kumari**”) was employed as a headmistress at Heerapur Primary School, District Etah run by the Board of Basic Education, Prayagraj, Uttar Pradesh. Her service conditions were governed by the Uttar Pradesh Basic Education (Teachers) Service Rules, 1981.
2. Kumari was hospitalised on 15 October 2022 and gave birth to her child. Upon discharge, she immediately applied for ML for a period of 180 days beginning 18 October 2022, which was rejected on grounds that the annexures in support of ML were incomplete.
3. She reapplied for ML on 30 October 2022 in the prescribed proforma. Her request was again rejected by the District Basic Education Officer, Etah (“**DBEO**”) in November 2022 stating that she cannot avail ML after child birth. However, she is eligible to apply for CCL. She was further denied salary for November and December 2022.
4. Aggrieved, she filed a writ before the HC.

C. Judgment and Reasoning of the Court

The Single Bench of the HC, while allowing the writ petition:

1. Directed the DBEO to pass fresh orders keeping in mind the provisions of the Act, and release salary arrears.
2. Relied on the scope of right to payment of maternity benefit under the Act³ along with the Preamble and held that “*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. The (Maternity Benefit) 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,*

¹ *Saroj Kumari vs. State of UP & Others* (W.P.2211 of 2023), available at this [link](#).

² *Deepika Singh vs. Central Administrative Tribunal and Others* (16.08.2022 - SC) : MANU/SC/1056/2022.

³ Section 5 of the Maternity Benefit Act, 1961.

both as a mother and as a worker, if they so desire.” Therefore, the HC concluded that ML can be extended after the birth of a child.

3. Opined that the scope of ML can also be extended to legal adoption of child less than three months for a period of 12 weeks.
4. Drew distinction between ML and CCL, reiterating the SC’s view in the *Deepika Singh* case to hold that the availability of CCL cannot disentitle ML since both operate in different fields and are mutually exclusive.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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