

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1539/98

New Delhi: this the 7th day of May, 1999. (7)

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Gmt. Alka Joshi,
Section Officer,
Ministry of Mines,
Shastri Bhavan,
New Delhi

..... Applicant.

(Applicant in person)

Versus

Union of India,
through
The Secretary,
Ministry of Personnel, P.G. & Pension,
(Dept. of Personnel & Training),
North Block,
New Delhi.

2. Under Secretary,
Dept. of Personnel & Training,
North Block,
New Delhi.

..... Respondents.

(By Deptt. Rep'r. Mr. Ashok Prasad, Asstt.)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' O.Ms. dated 7.10.97 and dated 31.12.97.

2. As regards O.M. dated 7.10.97 her contention is that para 3 thereof discriminates against female Govt. servants, because according to her a male Govt. servant will get the benefit of 15 days paternity leave, even if his child is 135 days' old on the date of issue of the O.M., while a female Govt. servant will have to join duty even if her child is less than 90 days' old on the date of its issue.

3. There is merit in respondents' reply that the leave benefit allowed to male and female Govt. servants are not comparable. Maternity leave of 90 days was a benefit already available to female Govt. servants as per Rule 43 CCS(Leave) Rules on account of child birth which has been increased to 135 days upon acceptance by Govt. of the recommendation of the 5th Pay Commission Report. On the other hand, 15 days' paternity leave is a new benefit, also accepted by Govt. on the recommendation of the 5th Pay Commission Report primarily to ensure the presence of the husband near his wife at the time of child birth on account of the break up of the Jt. family system. While maternity leave is admissible only to female Govt. servants, paternity leave is admissible to male Govt. servants, even if his wife is not serving anywhere.

4. The question of discrimination arises only when persons similarly placed are treated dissimilarly. As regards grant of maternity/ paternity leave, applicant cannot legitimately assert that male and female Govt. servants are similarly situated. Hence the challenge to OM dated 7.10.97 fails.

5. In so far as OM dated 31.12.97 is concerned, no specific grounds have been taken to challenge the same, and from the relief para of the OA it appears that what applicant is seeking is relaxation of its contents for a period of 1 month after passing orders in this OA to enable her to get her commuted leave taken after maternity leave into enhanced maternity leave. It is open to applicant to represent to respondent

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in this regard for disposal by respondent in accordance with rules and instructions.

6. Subject to what has been stated in para 5 above the OA is dismissed. No costs.

Lakshmi Srinivasan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J).

Arulagam
(S. R. ADIGE)
VICE CHAIRMAN (A).

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