

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

REVIEW APPLICATION NO.5 of 1998
IN
ORIGINAL APPLICATION NO.1585 of 1997

DATE OF ORDER: 5th JULY, 1998

BETWEEN:

C.NAGAMANI

AND

1. The Regional Director (Estt-I),
Regional Office,
ESI Corporation,
Hyderabad,
2. The Deputy Director,
ESI Corporation,
Hyderabad.



APPLICANT

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: MR.P.NAVEEN RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

ORDER

(PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.P.Naveen Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant in this OA has filed this Review Application for reviewing the orders passed in the OA dated 26.12.1997.

3. The main contention of the applicant in this OA is that she is entitled for maternity leave for 90 days from 27.12.94 to 26.3.95. The respondents had sanctioned that leave initially correctly in accordance with the rules but under erroneous consideration, the same was withdrawn by the order No.52.A/25/15/97-Estt.I dated 18.9.97. Hence she submits that the judgement of the Tribunal needs review as the OA was disposed of agreeing with the respondents' contention.

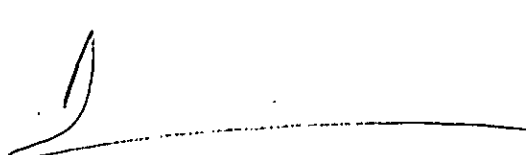
4. The various contentions raised in this RA for review of the judgment are analysed as follows:-

The applicant had to be granted leave in accordance with CCS (Leave) Rules, 1972 and on that basis she is entitled for the grant of maternity leave for the period from 27.12.94 to 26.3.95 as she had completed the requisite service, even though adhoc, before 27.12.94.

5. In the reply, it is stated that CCS (Leave) Rules, 1972 are applicable only to those employees holding a regular post and this has been indicated in the Second Schedule of ESI Corporation (Staff Conditions of Services) Regulations, 1959. Since ad hoc employees do not hold any regular posts, they are not governed by CCS (Leave) Rules

Rule 5(2) of the said Act wherein it is stipulated that "no woman is entitled to maternity benefit unless she has actually worked for not less than 80 days in 12 months immediately preceding the date of her expected delivery." She submits that she joined ESI Corporation as an ad hoc employee on 14.6.94 and that she fulfilled the conditions laid down under the rule referred to above. Hence she is entitled for the maternity leave. She further added that the ESI Corporation has to honour the Maternity Benefit Act as ESI Corporation is one of the Establishments coming under the meaning given in Rule 3 of the Act. She submits that Rule 3(e)(iv) of the Act is relevant. She further elaborated that the ESI Corporation should be deemed to come under this Act because of the phrase "other performances".

8. The above contention was examined. It is not clear as to how the applicant brings the ESI Corporation under the Maternity Benefit Act for the maternity benefits to be granted to an ad hoc employee. When it is clearly stated that regular employees are governed under CCS (Leave) Rules, 1972 and ad hoc employees can be granted leave as per OM dated 24.7.86, the submission of the applicant cannot be ^{accepted} ~~taken~~ unless a clear cut provision exists in the Maternity Benefit Act to bring the ESI Corporation under that Act. In the absence of any clear cut rule in this connection, it cannot be said that the said Maternity Benefit Act has to be applied in the case of the applicant also for granting her maternity leave. Hence this contention has to be rejected.



and their services can be terminated at any time and that they cannot be made entitled for all kinds of leave which can be availed by regular employees. But in order to make the position clear in regard to the grant of leave to adhoc employees, Govt. of India issued O.M.No.13018/1/82/Estt.(L) dated 24.7.86 and as per that OM, ad hoc employees are allowed only EL at ^{the rate of} 22½ days per month of completed service. The applicant was given the leave as per that OM dated 24.7.86 and hence she cannot demand any further grant of leave over and above what was already granted to her.

6. If CCS (Leave) Rules, 1972 are also applicable to ad hoc employees, the necessity of issuing the OM dated 24.7.86 does not arise. When specific instructions are given by the DoPT by the above mentioned letter for grant of leave to ad hoc employees in Govt. Departments, such instructions cannot be ignored. If the respondents have followed those instructions in toto, then it cannot be said that the respondents are not following the rules. The very fact that there is no mention for grant of leave to adhoc employees in CCS (Leave) Rules and grant of leave has been indicated in the OM dated 24.7.86 for the ad hoc employees, the instructions given in the OM dated 24.7.86 have to be followed. The applicant has been granted leave in accordance with those instructions. Hence she cannot demand for granting maternity leave provided in the CCS (Leave) Rules.

7. The second contention of the applicant is that she is entitled for maternity leave under Act No.53 of 1961 of the Maternity Benefit Act, 1961. As she had fulfilled

respondents.

13. In view of the reasons stated above, I find no merits in this R.A. Hence the R.A. is dismissed. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]

न्यायाधीश
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

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| केस संख्या | RA 5/98 |
| CASE NUMBER | A.A. 1585/97 |
| निर्णय का तारीख | |
| Date of Judgement | 8/7/98 |
| प्रति तय्यार किया गया दिन | |
| Copy Made Ready on | 10/7/98 |
| अनुरोध अधिकारी (न्यायिक) उप रजिस्ट्रार (न्यायिक) | |
| Section Officer (J) Dy. Registrar | |