

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT SITTINGS ;INDORE**

ORIGINAL APPLICATION NO. 290 OF 2006

Indore, this the 21st day of December, 2006

**Hon'ble Dr. G.C.Srivastava –Vice Chairman
Hon'ble Shri A.K.Gaur – Judicial Member**

Smt.Purnima Vijyavargiya, w/o Shri Neeraj Vijyavargiya, aged 35 years, Postal Assistant, Mofussil Divisional Office, Indore, r/o N-79, Sanchar Nagar Extension, Indore

-Applicant

(By Advocate – Shri D.M.Kulkarni)

Versus

1. Union of India through Secretary, Department of Postal Services, New Delhi.
2. Superintendent of Post Offices, Indore Mufussil Division, Indore.
3. Post Master General, Indore Region, Indore.

- Respondents

(By Advocate – Shri V.Saran)

ORDER (Oral)

By Dr.G.C.Srivastava, Vice Chairman.-

This Original Application has been filed praying for the following relief:

“8.1 It be declared that the applicant is entitled to 135 days Maternity Leave as per Rule 43, Sub Rule (1) & (2) of the CCS (Leave) Rules, 1972”.

2. It has been submitted by Shri Kulkarni, learned counsel for the applicant that the applicant proceeded on maternity leave on 20.5.2005 and delivered a male baby on 23.5.2005. Unfortunately, immediately after the delivery, the baby expired. The applicant had already applied for maternity leave and she joined her duties on 3.10.2005 after availing leave for 135 days. This leave was refused by the respondents on the ground that this was not a case of pregnancy but was of miscarriage for which only 45 days leave was admissible and that too she was not entitled because she had already availed of 45 days leave for miscarriage earlier in 1998. The learned counsel for the applicant has drawn our attention to the medical certificate issued by the Assistant Surgeon, In-charge Civil Dispensary, Sanyogita Ganj, Indore

(2)

(annexure P-7) wherein it has clearly been stated that the delivery on 23.5.2005 was a preterm delivery case, not miscarriage, because miscarriage is a pregnancy loss of up-to 20 weeks and her pregnancy was 31-32 weeks on date of delivery. Accordingly, the learned counsel submitted that the applicant is entitled to 135 days of maternity leave and the request of such leave was refused without any valid grounds.

3. Shri V.Saran, learned counsel appearing on behalf of the respondents argued that this was a case of miscarriage and not of pregnancy and hence the applicant was not entitled to maternity leave as per pregnancy.

4. We have given our anxious thought to the submissions made by the learned counsel of parties.

5. In view of the facts that a clear certificate has been issued by the doctor concerned ~~whether~~ ^{that it is not} ~~it was~~ ^{but a} miscarriage or pregnancy case, and even initially the maternity leave was granted on the request of the medical certificate issued by the government medical attendant, we are of the view that the respondents have without any valid ground rejected the request of the applicant for maternity leave for 135 days. The applicant had undergone pregnancy and she was entitled to get full maternity leave and it cannot be cut down merely on the unfortunate happening of loss of baby immediately after delivery. In view of this, we quash the impugned order dated 20.7.2005 (annexure P-1), whereby the application for maternity leave was rejected. We direct the respondents to grant maternity leave and also regularize her absence accordingly within a period of one month from the date of receipt of this order. The OA is accordingly allowed. No costs.

A.K.Gaur
(A.K.Gaur)
Judicial Member

rkv

*Issued
on 22/11/2005*

Gaur
(Dr.G.C.Srivastava)
Vice Chairman