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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

ORIGINAL APPLICATION NO.060/00411/2014

**Order Reserved on 11.11.2014
Pronounced on 14. 11.2014**

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

Smt. Sushma Saurbh D/o Sh. Brij Bhushan Aggarwal W/o Sh. Santosh Gupta, Science Mistress (Non-Medical), Govt. High School, Mauli Colony, U.T., Chandigarh, Resident of House No.1087-B2, Visvkarma Colony, Pinjore, Distt. Panchkula, Haryana.

... Applicant

Versus

1. Union of India through Secretary, Department of Education, Govt. of India, North Block, New Delhi.
2. Secretary, Department of Education, Chandigarh Administration, U.T. Secretariat, Sector-9, Chandigarh.
3. Director Public Instructions (Schools), Chandigarh Administration, U.T. Secretariat Building, Sector-9, Chandigarh.
4. District Education Officer (s), Chandigarh Administration, Vatika School Complex, Sector-19, Chandigarh.
5. Principal, Govt. Model Senior Secondary School, Sector 47-D, Chandigarh.
6. The Mistress, Govt. High School, Mauli Colony, U.T., Chandigarh.

... Respondents

Present: Ms. Deepika, proxy for Sh. Ranjivan Singh, counsel for the applicant.
Sh. Amit Jhanji, counsel for the respondents.

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ORDER**BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

"8 (i) For setting aside/quashing Memo No.GMSSS-47-13/1027 dated 5.2.2014 (Annexure A-12) as issued by respondent no.5 whereby denying the salary to the applicant for the period she availed Maternity Leave (from 13.6.2013 to 10.09.2013 i.e. 90 days) on the pretext of completing one year of service in view of notification circular dated 24.1.2013 (A-7) in an illegal, arbitrary and unjustified manner since the said pre-condition having no force of law rather contemptuous in view of judgment dated 27.8.2003 (A-3) passed by this Court in OA No.429/CH/2003 (Sonika Kohli Vs. Union of India) followed subsequently in number of judicial pronouncements elaborated in the body of the instant OA.

(ii) For quashing the notification/circular dated 24.1.2013 (A-7) and circular dated 4.1.2012 (A-5) to the extent it restrict the admissible period of maternity leave to 12 weeks only and further make such admissibility only to those contractual female employee who have completed a minimum of one year of successful contractual service, being illegal and arbitrary and against the mandate given by this Court on 27.8.2003 (A-3) in OA No.429-CH of 2003 (Sonika Kohli Vs. Union of India).

(iii) For directing the respondents to grant/release the salary to the applicant for the period she remained on duly sanctioned Maternity Leave (from 13.6.2013 to 10.09.2013 i.e. 90 days) alongwith the interest @18% p.a. in view of the law laid down by this Court in the matter of Sonika Kohli Vs. Union of India (OA No.429/CH/03 decided on 27.8.2003) and also in view of the judgments passed by this court in OA No.1162/CH/2012 on 12.12.2012 in the case titled as Neetu Arora and others Vs. Union of India (Annexure A-6)."

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2. Short reply has been filed on behalf of the respondents wherein it has been stated that the applicant is claiming salary for the period for which she remained on maternity leave i.e. from 13.6.2013 to 10.9.2013 for 90 days. During the pendency of the present OA, the salary for this period i.e. 13.6.2013 to 10.9.2013 for 90 days, an amount of Rs.23,467/- has been disbursed to the applicant by the answering respondents in July 2014 and this is evident from the order passed by respondent no.6 as well as detail vide which an amount of Rs.23,467/- was disbursed in the account of the applicant (Annexure R/1-Colly).

3. When the matter came up for consideration on 11.11.2014, learned counsel for the respondents stated that the applicant was basing her claim for interest on account of delayed payment of the maternity benefits on the basis of order dated 12.12.2013 in OA No.1162/CH/2012. However, perusal of this order would show that there was considerable delay in the release of salary for the maternity leave period in the case of applicants in that OA as the maternity leave period in respect of which claim was made related to the year 2007 while payments were made after decision in that OA in 2012. Besides, the applicant was also party in OA No.247/CH/2013 decided on 25.10.2013 (Sl. No.9) and it had been observed therein that the OA had become infructuous in view of the instructions dated 24.1.2013 issued by the Respondent Department related to maternity leave. These

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instructions appended as Annexure A-7 with the present OA directed that "It has now been decided by the Chandigarh Administration to grant the maternity leave of twelve weeks with pay to such female employees working on contract basis in various departments of Chandigarh Administration who have completed a minimum of one year service successfully." At the time when applicant proceeded on maternity leave, she had not completed one year's service. However, the Respondent Department had released pay for 12 weeks of maternity leave availed by the applicant, hence there was no basis for claim of interest made in this OA and the OA merited dismissal.

4. Learned counsel for the applicant did not controvert any of the submissions made by counsel for the respondents.

5. Hence in view of the categorical statement made by learned counsel for the respondents we conclude that the present OA has been rendered infructuous and is disposed of as such.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 14.11.2014.

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