

**Central Administrative Tribunal
Principal Bench**

OA No. 3919/2015

New Delhi this the 27th day of October, 2015

Hon'ble Mr. Justice L.N. Mittal, Member (J)

Mrs. Surekha Nandal,
D/o DS Sauran,
R/o House No. 1513, Sector-29
Noida-201303

-Applicant

(By Advocate: Shri Rajesh Nandal)

Versus

1. The Secretary,
GNCT Delhi
Delhi Secretariat,
IP Estate, New Delhi-110113
2. Secretary,
Department of Education,
GNCT Delhi,
Old Secretariat Complex,
New Delhi-110054
3. Regional Director Education (East)
SBV School Building, Rani Garden,
Delhi
4. Special Director,
Department of Education,
ROG, GNCT Delhi,
Old Secretariat Complex,
New Delhi-110054
5. DDE (East)
D-Block, Anand Vihar,
New Delhi-110092

-Respondents

O R D E R (Oral)

The applicant availed of maternity leave w.e.f.
17.01.2006 to 31.05.2006 (135 days). Thereafter she

availed of extra ordinary leave (EOL) for child care w.e.f. 01.06.2006 to 26.01.2007 (240 days). The said leave for 240 days has been treated as EOL on private affair for child care. The grievance of the applicant in the instant OA is that the said EOL should not be treated as leave for private affair but should be treated as child care leave. Consequential benefits have also been claimed.

2. I have heard counsel for the applicant and perused the case file with his assistance.

3. Counsel for the applicant referred to Rule 43 (Maternity Leave) of the Leave Rules. Referring to clause (b) of sub rule (4) of the said Rule, counsel for the applicant contended that EOL for 240 days could be granted in continuation of maternity leave and should have been treated as maternity leave and not as leave for private affair.

4. The aforesaid contention cannot be accepted. For the facility of reference, Rule 43(4)(b) is reproduced hereinbelow:-

“(b) Notwithstanding the requirement of production of medical certificate contained in sub-rule (1) of Rule 30 or sub-rule(1) of Rule 31, leave of the kind due and admissible (Including commuted leave for a period not exceeding 60 days and leave not due) up to a maximum of one year may, if applied for, be granted in continuation of maternity leave granted under sub-rule (1).”

5. Perusal of the aforesaid provision reveals that leave of the kind due and admissible up to a maximum one year could be granted in continuation of maternity leave under sub-rule (1). However, since extraordinary leave has been granted to the applicant, it would mean that no leave was due to the applicant for the aforesaid period. In addition to it, even if leave is granted under the aforesaid provision, the same would not be maternity leave but would be leave of any other kind, although in continuity of the maternity leave. In this regard, Rule 43(4)(a) stipulates that maternity leave may be combined with leave of any other kind. This provision makes the picture clear that further leave in continuity of maternity leave would not be maternity leave but would be leave of any other kind.

6. It may also be mentioned that the aforesaid EOL for 240 days could not be treated as child care leave because provision for child care leave was introduced w.e.f. 01.09.2008 only vide OM dated 11.09.2008 and thus when the said EOL for 240 days was availed w.e.f.. 1.6.2006 till 26.01.2007, the provision for child care leave did not even exist. Thus, the aforesaid EOL was granted to the applicant for private affair.

7. For the reasons aforesaid, I find no merit in the instant OA, which is, therefore, dismissed at the admission stage.

(L.N. Mittal)
Member (J)

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