

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00344/18

Jodhpur, this the 13th November, 2018

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Lata Choudhary W/o Sandeep Kumar aged about 37 years R/o Near PNB Basni, 1-J-15, Madhuban Housing Board, Jodhpur Rajasthan. As a TGT (P&HE) K.V. Airforce, Jaisalmer, Rajasthan.
.....Applicant

By Advocate : Mr Jitendra Choudhary.

Versus

1. The Union of India through the Secretary, Ministry of Human Resource Development, Government of India, Shastri Bhawan, New Delhi.
2. The Commissioner, Kendriya Vidhyalaya Sangathan, Sahid Jeet Singh Marg, New Delhi.
3. Deputy Commissioner, Kendriya Vidhyalaya Sangathan, Jaipur Region, 92 Gandhi Nagar Marg, Bajaj Nagar, Jaipur.
4. Assistant Commissioner, Kendriya Vidhyalaya Sangathan through Regional Office, Jaipur.
5. Principle, Kendriya Vidhyalaya, Airforce, Jaisalmer, Rajasthan.

.....Respondents

ORDER (Oral)

Heard.

2. The present Original Application has been filed U/s 19 of the Administrative Tribunals Act, 1985 by Ms Lata Choudhary challenging order dated 23.10.2018 (Annex. A/1) whereby her application for maternity leave has been rejected by the respondents.

3. It has been submitted that the applicant is at present 07 months pregnant and on 09.10.2018, she consulted her doctor who advised her for bed rest for remaining period of her pregnancy. It has also been submitted that she also got pregnant in the year 2012 and took maternity leave from 05.05.2012 to 31.10.2012 but unfortunately pregnancy culminated into stillborn child. At present, the only living child is her daughter from her second pregnancy. The applicant applied for maternity leave for 180 days vide application dated 12.10.2018 but the same has been declined vide impugned order dated 23.10.2018 (Annex. A/1) without considering Rule 43 of CCS (Leave) Rules, 1972.

3. After going through the impugned order dated 23.10.2018, I find it only speaks that applicant had earlier twice availed maternity leave for different periods, therefore, she is not entitled for the same for third time, whereas Rule 43 (1) of CCS (Leave) Rules, 1972 provides that “(1) A female Government servant (including an apprentice) with less than two surviving children may be granted maternity leave by an authority competent to grant leave for a period of (135 days) from the date of its commencement.” As per applicant, she has only one surviving child. The impugned order, on face of it, is a non-speaking order issued by respondent No. 5 as it nowhere mentions the rule under which the application submitted by the applicant alongwith advice of the treating doctor has been rejected.

4. Accordingly, impugned order dated 23.10.2018 (Annex. A/1) is quashed. OA is disposed of with the direction to the respondents to sympathetically reconsider case of the applicant in light of CCS (Leave) Rules, 1972 and consider grant of applicable leave to her as advised by the treating doctor. Respondents shall pass a reasoned speaking order in this regard, as per law, within one month from the date of receipt of a copy of this order.

[Hina P. Shah]
Judicial Member

Ss/-