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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 30th November, 2022*

+ W.P.(C) 1305/2022

SUCHITA SHRIVASTAVA Petitioner
Through: Mr. Kumar Mihir, Advocate.

versus

RESERVE BANK OF INDIA Respondent
Through: Mr. Ramesh Babu,
Ms. Manisha Singh, Ms. Sanya Panjwani
and Ms. Tanya Chowdhary, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking a direction that issues/complications arising out of pregnancy be treated as covered under para 6.5 of the Master Circular dated 01.07.2020 and further directing the Respondent to grant advance sick leave to the Petitioner in terms of para 6.5 with consequential benefits of salary and allowances after adjusting her absence for the said period.
2. Petitioner herein is working as an Assistant Manager in the Respondent Bank and the terms and conditions of her service are governed by Reserve Bank of India (Staff) Regulations, 1948. On 01.07.2020, Respondent issued a Master Circular containing updated compilation of Instructions on various kind of Leaves, with respect to the Bank employees. Para 6.5 of the said Circular which is relevant to the present case is extracted hereunder, for ready reference:

“6.5 Advance Sick Leave up to 180 days on half leave pay may be granted to whole time confirmed employees in genuine cases of illness requiring prolonged treatment/hospitalization such as T.B., mental derangement, major surgical operations, etc., on the basis of medical certificates from the BMO or a Civil/Surgeon/Govt. Medical Officer or a Government/Municipal or reputed private hospital.”

3. It is the case of the Petitioner that she had applied for casual leave from 09.11.2020 on account of the ill health of her relative and travelled out station. However, she herself fell ill and had to take treatment in Bhopal, Madhya Pradesh and could not return to Delhi on 15.11.2020, which was a Sunday. Thereafter, she sought sanction for sick leave from 14.11.2020 to 27.11.2020. Respondent sought details of the illness and the medical advice of the Doctor, details of which were furnished by the Petitioner.

4. It is further averred in the writ petition that thereafter the Petitioner and her family members contracted COVID-19 and had to be quarantined till 13.12.2020. Petitioner was also advised bed rest on account of complications arising out of pregnancy and on this count, Petitioner offered to work from home, if possible. She also requested for adjustment of her balance leave and for grant of advance sick leave, which was, however, declined by the Respondent. Thereafter, the Petitioner was promoted but at the same time a warning letter was issued to her and her request for advance sick leave was declined *vide* an e-mail dated 11.03.2021.

5. It is the contention of the Petitioner that perusal of para 6.5 of Master Circular would establish that advance sick leave is available to all whole-time confirmed employees, who suffer from illness, which requires prolonged treatment/hospitalization and illustrations are mentioned therein. According to the Petitioner the list of illustrations is only inclusive and not exhaustive, which is evident from the use of the words 'such as' and 'etc.' and therefore, any other illness/medical complication, which requires prolonged treatment/hospitalization would be covered under para 6.5, entitling the Petitioner to advance sick leave.

6. It is submitted that Petitioner was suffering from various ante-natal complications including preeclampsia, which was leading to serious health issues and she was advised complete bed rest and treatment and thus, there was no reason to deny to the Petitioner, benefits of advance sick leave under the Master Circular.

7. Mr. Ramesh Babu on the other hand submits that ordinarily pregnancy cannot be termed as an illness and therefore, cannot be compared with the illnesses referred to by way of illustrations and envisaged under para 6.5 of the Master Circular, *albeit* he does not dispute the fact that many a times serious medical complications can arise during pregnancy, which may entail a prolonged treatment or hospitalization/surgery.

8. Additionally, it is submitted that advance sick leave under para 6.5 of the Master Circular cannot be granted to the Petitioner on account of pregnancy, since there is a separate carve out by way of maternity leave, in the same Circular.

9. I have heard the learned counsels for the parties.

10. Reading of para 6.5 of the Master Circular indicates that advance sick leave is to be ordinarily granted for illness which requires prolonged treatment/hospitalization. It is also true that para 6.5 makes reference to ailments such as tuberculosis, mental derangement, etc., however, significantly, words ‘such as’ and ‘etc.’ are also to be found in the said paragraph, which reflects the intent behind the provisions of para 6.5 that the list of illnesses mentioned therein is merely inclusive and not exhaustive. In this context, I may refer to Advance Law Lexicon, which defines ‘such as’ as under:-

“Such as. The words “such as” indicate that what are mentioned thereafter are only illustrative and not exhaustive.”

11. I may also allude to the judgment in *Royal Hatcheries Pvt. Ltd. And Others v. State of A.P. And Others, 1994 Supp (1) SCC 429*, in this context, where the Supreme Court held as follows:

“15. So far as words “such as” are concerned, there is no dispute that they are meant to be illustrative and not exhaustive. It is, therefore, unnecessary to refer to the decisions cited by the learned counsel for the appellants on this aspect.”

12. This Court is in agreement with the learned counsel for the Respondent that pregnancy cannot ordinarily and strictly be termed as an ‘illness’. However, at the same time it is not and cannot be disputed or overlooked that in some cases, serious medical complications can arise even during pregnancy, requiring surgery and/or hospitalization. Relevant it is to note that there is no prohibition or proscription in para 6.5, which prevents the Respondent from treating the case of medical complications arising out of pregnancy as one covered under the said provision, for grant of advance sick leave. The purpose behind the said provision is to enable an employee to seek advance sick leave when the health conditions so require *albeit* while determining the grant of leave, the decision to grant or not to grant can take colour from the nature of illnesses mentioned in para 6.5, which are illustrative and not exhaustive and therefore, the matter requires to be revisited by the Respondent.

13. Insofar as the argument that Petitioner could have availed maternity leave in case there was any complication in her pregnancy, instead of seeking advance sick leave invoking para 6.5 of the Master Circular, is concerned, there is no merit in the same. There is nothing in the Circular which even remotely suggests that an employee who has an entitlement to maternity leave can never apply for any other kind of leave. While this Court is leaving the matter to the Respondent to reconsider and re-examine applicability of para 6.5 of the Master

Circular, it needs to be penned down there are various beneficial and benevolent Legislations such as Maternity Benefit Act, 1961 and Employees' State Insurance Act, 1948, which provide for various kinds of leaves in addition to maternity leave for illnesses arising out of pregnancy, delivery, pre-mature birth, etc.

14. In view of the aforesaid, at this stage, this Court deems it appropriate to direct the Respondent to revisit and reconsider the applicability of para 6.5 of the Master Circular to the case of the Petitioner, in light of the issues flagged by her in the present petition. Petitioner shall furnish to the Respondent medical documents in support of her claim for advance sick leave and upon receipt of the documents, Respondent shall take a decision and pass a speaking order. It is open to the Respondent to take the assistance of medical practitioners/a Medical Board in order to arrive at the decision.

15. The decision shall be taken within 8 weeks from receipt of the medical documents from the Petitioner and a reasoned order shall be passed, which shall be communicated to the Petitioner.

16. It is open to the Petitioner to approach the Court in case of any surviving grievance.

17. Writ petition is disposed of, in the aforesaid terms.

JYOTI SINGH, J

NOVEMBER 30, 2022/sn/shivam/rk