

No.EP.38(2)/2017
FOOD CORPORATION OF INDIA
HEADQUARTERS
16-20, BARAKHAMBA LANE

New Delhi, dated: 24TH September, 2018

(Circular No.EP-04-2018-20)

Subject: - Maternity leave in case of surrogacy.

Reference is invited to Circular No. EP- EP-04-2008-35 dated 30.12.2008 regarding "Enhancement of the quantum of Maternity Leave and Introduction of Child Care Leave in respect of employees of the Corporation"

2. The Department of Personnel and Training (DoPT), Ministry of Personnel, Public Grievances and Pensions has issued vide O.M. No. 13018/6/2013-Estt(L) dated 29.01.2018 enclosed therein order of High Court of Delhi in the Writ Petition No.844/2014 filed by Ms. Rama Pandey, Teacher, Kendriya Vidyalaya V/s Uol & Others — reg.

3. May please refer to relevant Para No. 24 of the judgment enclosed aforesaid O.M. which states as under:-

(i) A female employee, who is the commissioning mother, would be, entitled to apply for maternity leave under sub-rule (1) of Rule 43 of CCS(Leave) Rules, 1972.

(ii) The competent authority based on material placed before it would decide on the timing and the period for which maternity leave ought to be granted to a commissioning mother who adopts the surrogacy route.


(iii) The scrutiny would be keener and detailed, when leave is sought by a female employee, who is the commissioning mother, at the pre-natal stage. In case maternity leave is declined at the pre-natal stage, the competent authority would pass a reasoned order having regard to the material, if any, placed before it, by the female employee, who seeks to avail maternity leave. In a situation where both the commissioning mother and the surrogate mother are employees, who are otherwise eligible for leave (one on the ground that she is a commissioning mother and the other on the ground that she is the pregnant women), a suitable adjustment would be made by the competent authority.

(iv) In so far as grant of leave qua post-natal period is concerned, the competent authority would ordinarily grant such leave except where there are substantial reasons for declining a request made in that behalf. In this case as well, the competent authority will pass a reasoned order.

4. A Copy of DOPT O.M. No. 13018/6/2013-Estt(L) dated 29.01.2018 alongwith the Hon'ble High Court of Delhi Judgment dated 17.07.2015 in the Writ Petition No.844/2014 regarding subject cited above is forwarded for wide publicity and information to all the offices of the Corporation.

5. This issues with the approval of Competent Authority.

Encl: As above.


(Nipun Trikha)
AGM (Estt.Policy)

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