

News

Women's right to pregnancy leave extends beyond Maternity Benefit Act: Kerala High Court



The Court decided that because maternity leave is a right, it shouldn't be combined with other discretionary leaves.

Recently, the Kerala High Court emphasized that maternity leave is not just a legislative benefit under the Maternity Benefit Act, 1961, but also a component of a woman's reproductive rights.

Such reproductive rights have been acknowledged as fundamental rights, according to Justice Bechu Kurian Thomas. The Court further stated that ordinary medical breaks that are optional cannot be combined with the right to maternity leave. Maternity leave must be considered a component of a woman's reproductive rights, which are acknowledged as fundamental rights. A woman shall be considered to have a right to leave throughout a reasonable time of her pregnancy under the Maternity Benefit Act of 1961. The Court stated, **"This period must also include the time to recuperate."**

The observation was made by the Court when it granted relief to a female postgraduate medical student who was facing the revocation of her candidature following the denial of her request for specific leaves.

Notably, the trainee was refused additional medical leave because her previous maternity leave, when combined with her other leaves, exceeded the maximum amount of leave allowed by the National Board of Examinations in Medical Sciences' (2024) regulations (NBEMS).

Maternity leave should not be combined with other medical leaves in this way, the Court decided on January 20.

After passing the NEET Super Speciality Examination in December 2022, the trainee enrolled in Aster Medcity's DrNB program in nephrology.

She took use of 184 days of maternity leave throughout her training after giving birth to her second child, in addition to a few additional approved breaks.

She needed chemotherapy and extended treatment after being diagnosed with a severe and aggressive form of blood cancer in 2025.

When she requested medical leave to seek treatment, NBEMS denied her request, claiming that the total breaks she would have taken—402 days—from her present request plus maternity leave would have exceeded the 365 days of leave allowed throughout the training period.

The board informed her that her candidacy would be revoked if the leaves lasted more than a year.

The trainee, infuriated, went to the High Court to contest this denial.

The Court noted that when the trainee enrolled in the program in 2022, a different set of leave regulations was in effect. These regulations allowed for the clubbing of breaks longer than a year in extraordinary circumstances, including protracted illness, with board approval.

The Court noted that a candidate who had enrolled in the program under the previous framework could not be subjected to the strict application of the new 2024 regulations, which eliminated this flexibility. However, the current regulations do not account for any special circumstances, such as protracted illness. The petitioner has been seriously harmed by the change in regulations because she enrolled in the DrNB course during the period when such extraordinary circumstances were accepted as justification for an extension, the Court observed.

The Court ruled that it was not possible to apply the ***"no leave beyond one year" concept in a mechanical manner. This Court believes that the maternity leave taken by a trainee like the petitioner cannot be combined with the other regular vacations that such a trainee can take, since maternity leave is a right and other leaves are discretionary,*** the Court further stated.

In light of the particular circumstances, the Court ordered the board to allow the petitioner to reapply for leave within ten days and to review the application within two weeks.

With these instructions, the writ petition was concluded.

Advocates Roshan Jacob Mundackal and George Jacob (Jose) represented the trainee.

Standing attorney T Sanjay represented NBEMS.

On behalf of the Dean of Aster Medicity, represent standing attorney Gopikrishnan Nambiar.

OM Shalina, India's Deputy Solicitor General, represented the Union Health Ministry.