



Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.764 OF 2023 (Filing No.)

Shri Valencio D'Souza,
Age 49 years, Indian National
House No.2/662/D,
Behind Police Quarters,
Alto Chicalim Goa. ...Petitioner

Versus

The Director,
Institute of Psychiatry & Human Behaviour,
Bambolim Goa. ...Respondent

Mr Vithal Naik, Advocate for the Petitioner.

Ms Sulekha Kamat, Additional Government Advocate for the
Respondent.

CORAM: DR. NEELA GOKHALE, J.

Reserved on : 9th APRIL 2026

Pronounced 16th APRIL 2026

on:

ORDER:

1. At the outset, the Petitioner is directed to remove the office objections and pay requisite Court fee, if not already paid.
2. Although the relief sought by the Petitioner in the present matter is rendered infructuous by the efflux of time, the issue brought by the Petitioner before this Court is of some importance.

It relates to the non-adherence by a Government official to the Child Care Leave policy framed by the Department of Personnel dated 27th June, 2014, thereby violating a fundamental right accruing to the Petitioner's child.

3. By way of the present petition, the Petitioner has challenged the judgment and order dated 11th April 2022, passed by the Goa Human Rights Commission in Proceeding No.44/2021 and the order dated 8th August 2022, passed by the said Commission in Review Application No.02/2022.

4. The facts giving rise to the proceedings reveal that a complaint dated 11th February 2021 was made by the Petitioner in respect of rejection of Child Care Leave (CCL) for his spouse, namely Smt. Millie Do Rosario, who was working as an Assistant Accounts Officer in the Institute of Psychiatry and Human Behaviour, Bambolim, Goa. Smt. Millie, by her letter dated 7th August 2020, made an application to the Director of the Institute seeking the grant of child care leave for 266 days with effect from 7th September 2020 to 30th May 2021 for the purpose of taking care and looking after the needs of her son Mast. Warren D'Souza, studying in Std. 12th of science stream. She was required by her son to help in preparing for his higher secondary board exam, as he was a weak student. This was especially so as it was during the COVID-19 pandemic.

5. Smt. Millie's application was forwarded by the Director of the Institute to the Directorate of Accounts. A reply was received from the Director of Accounts to the Director of the Institute dated 2nd September 2020, conveying that the Directorate is exploring the possibility of posting a substitute in place of Smt. Millie during her leave period and an Officer will be posted once her leave was sanctioned. By order dated 12th /16th October 2020 Smt. Millie was accorded sanction and was granted child care leave for 60 days from 19th October 2020 to 17th December 2020 against the 266 days sought by her. Smt. Millie availed of the said leave. However, she sought an extension as her child was weak in studies and required constant support and regular supervision in his crucial academic year. By Memorandum dated 9th December 2020 her application for extension was refused.

6. Smt. Millie joined service after availing 60 days of child care leave and sought reconsideration for extension of child care leave. The same was also rejected as being contrary to the extant policy of the Department.

7. Being aggrieved by the refusal, the husband of Smt. Millie, i.e. the Petitioner herein made a complaint before the Goa Human Rights Commission. By an inquiry report dated 11th April 2022, the Commission held that there was no violation of the Petitioner's

human rights by the Department and hence the complaint was disposed of.

8. The Petitioner filed a review application bearing No.02/2022 seeking review of the order dated 11th April 2022. The said review application was also rejected. Hence, the Petitioner is before this Court for the relief as prayed for.

9. Mr Vithal Naik, learned counsel appeared for the Petitioner and Ms Sulekha Kamat, learned Additional Government Advocate represented the Respondent.

10. Mr Naik submitted that the rejection of six months child care leave to the Petitioner's wife was in complete breach of the Circular dated 20th February 2013 of the DoPT and warranted strict action against the officer concerned for violation of the basic human rights of the Petitioner's child who was deprived of the assistance and care by his mother, in his crucial academic year. He also submitted that the officer concerned was casual and rejected the application without reference to the Minister (Personnel) as mandated by the Circular. He submits that the basic human rights of the Petitioner's wife and child are violated, and strict action should be taken against the concerned officer.

11. *Per contra*, Ms Kamat pointed to the averments in the affidavit affirmed by Prof. Dr J. P. Tiwari, the Present Director of the Respondent institute, dated 30th September 2025, attested before the Notary Public. She submitted that there is no infirmity in the impugned orders passed by the Human Rights Commission. She submitted that the orders were passed after considering the relevant Rules and Guidelines of the Government. She thus defended the orders and prayed that the petition be rejected.

12. I have heard both the counsel representing the respective parties and perused the record with their assistance.

13. Admittedly, the purpose for which the leave was sought by the Petitioner's wife, i.e. for the purpose of assisting and providing support to their child in his crucial academic year, no longer exists. However, there is an important issue raised by the Petitioner regarding non-compliance of the policy of the DoPT published by a Circular dated 20th February 2013 and 27th June 2014. The Circulars read thus:-

“File No.2/38/75-PER (Vol. IV)

Dated: 20/02/2013

C I R C U L A R

Attention of all Heads of Department/Offices are invited to this department's Circular of even No. dated 10/08/2012,

wherein it was made mandatory on the part of Heads of Department/Officers who does not wish to recommend/sanction Child Care Leave to a women employee, to refer the Case with proper justification for rejection to Minister (Personnel) through concerned Minister.

It has now come to the notice of the Government that the contents of this Circular is not being followed by the concerned authorities in letter and spirit thereby jeopardizing the main objective of issue of the said Circular.

It is therefore, once again reiterated that, all the Heads of Department/Offices shall ensure that no Child Care Leave is rejected without approval of Government. Further, the application regarding Child Care Leave shall be disposed off within 30 days except in cases where the matter has been referred to Government. If for any reasons, Head of Department/Leave Sanctioning Authority intends to reject the Leave, than the approval of the Minister for Personnel shall be mandatory. In such cases the Department/Concerned Head of Department/Leave Sanctioning Authority shall put up the matter to Minister (Personnel) through concerned Minister with all difficulties for decision.

In case the Child Care Leave is found to be rejected by the Head of Department without approval of the Minister for Personnel, the said act on the part of the concerned Head of Department will be viewed seriously and action shall be initiated for such a lapse as provided under the conduct Rules.

Sd/-

(N. P. Singnapurker)

Under Secretary (Personnel-II)

No. 2/5/92-PER

Dated: 27.06.2014

CIRCULAR

In terms of the Government of India's Ministry of Personnel, Public Grievances & Pensions Office Memorandum No.13018/1/2010-Estt. (Leave) dated 07/09/2010 circulated by this department vide endorsement No.2/38/75-PER (Vol. IV)

dated 21/10/2010, a female Government employee shall be granted Child Care Leave subject to the following conditions:-

- I) Child Care Leave may not be granted in more than 3 spells in a calendar year.*
- II) Child Care Leave may not be granted less than 15 days.*
- III) Child Care Leave should not ordinarily be granted during the probation period except in case of certain extreme situation.*

In partial modification to the said guidelines, the Government has now decided that henceforth, the minimum period of Child Care Leave that may be granted to a female Government employee shall not be for less than 6 months depending upon the balance period of Child Care Leave available at the credit of women employee. In case the balance period of Child Care Leave available at the credit of women employee is less than 6 months days, the said employee shall be granted CCL upto the balance leave available to her credit although it happens to be less than 6 months.

It is enjoined upon All the Heads of Department/Offices to scrupulously follow the above instructions while granting Child Care Leave to the Government Women Employees.

Sd/-

*(Umeshchandra L. Joshi)
Under Secretary (Personnel-I)”*

14. A plain reading of Circular dated 20th February 2013 requires the Heads of Departments/Offices vested with the authority to grant child care leave, to seek approval of the Government concerned before rejecting any request seeking child care leave. The said Officer concerned is to refer the case of the concerned person to the Minister (Personnel) through the concerned Minister, in case the request is being rejected. Moreover, the Circular dated 27th June 2014 provides that the minimum

period of CCL that may be granted to a female Government employee shall not be less than 6 months, depending upon the balance period of CCL available to her credit. Thus, it is clear that the Officer concerned failed to adhere to the CCL policy relevant at that point in time.

15. The legislation acknowledges the indispensable contribution of a woman in familial stability, her responsibility in nurturing and caring for a child, and the physical and emotional demands attached to motherhood. By providing income security and institutional support during this critical phase, the legislation seeks to ensure that motherhood does not operate as a source of disadvantage in the workplace, but is instead accommodated as a socially valuable function warranting protection and respect. Considering the importance of the policy to grant CCL to women, not only is her right sought to be protected, but even the right of her child to her society and comfort is sought to be secured.

16. In the matter at hand, the Petitioner's child required the support and presence of his mother during his 12th Std. exams, especially during the prevailing COVID-19 Pandemic. Because of the non-adherence to the policy framed and circulated by the DoPT to all the Government offices concerned, the Petitioner's child was deprived of the support of his mother. Even if the Department was

understaffed and required the services of the Petitioner, the Director ought to have referred the request of the Petitioner's wife, with her own recommendation of refusal of the CCL as sought by the Petitioner's wife, to the concerned Minister. The Minister concerned would have then taken the decision. To that extent, there was a lapse on the part of the official concerned in adhering to the terms of the policy.

17. As stated above, the purpose for which the CCL was sought no longer exists. Thus, nothing survives in the petition as on date; however, the Government Officials concerned must act in aid of the relevant and prevailing policies concerning CCL so as to secure the objects of such policies.

18. The petition is disposed of accordingly.

DR. NEELA GOKHALE, J