



2026:AHC-LKO:26157

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 3721 of 2026

Manisha Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy.,
Deptt. Of Technical Edu. Lko. And Another

.....Respondent(s)

Counsel for Petitioner(s) : Chinmay Mishra
Counsel for Respondent(s) : C.S.C.

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

Heard learned counsel for the petitioner and learned Standing Counsel appearing for the State-respondents.

The written instructions produced by the learned Standing Counsel for the State are taken on record.

By this petition, petitioner has prayed for quashing of the impugned order dated 04.04.2026 passed by the respondent No. 2 whereby maternity leave sought by the petitioner has been rejected. The impugned order dated 04.04.2026 contained in Annexure No. 1 is extracted hereinunder:-

"मनीषा यादव [1535740), कनिष्ठ सहायक, राजकीय पॉलिटैक्निक जमुनिया डीह हरख बाराबंकी बाराबंकी को अवकाश आवेदन संख्या 2901211 के क्रम में दिनांक 06/04/2026 से 02/10/2026 तक 180 दिन का मातृत्व अवकाश निम्नलिखित टिप्पणी/टिप्पणियों के साथ अस्वीकृत किया जाता है।

टिप्पणी: अनुमन्य नहीं। आवेदित अवकाश वित्तीयहस्तपुस्तिका खण्डदोभागासे IV स0नि0153 (1) में प्रावधानके अनुसार स्वीकृत करने की इजाजत नहीं देता आप को नियमानुसार अन्य अनुमन्यअवकाश यदिआप द्वाराआवेदित किया जाता है।"

Learned counsel for petitioner has placed reliance on judgments rendered by Coordinate Benches of this Court in the case of **Anupam Yadav & Ors versus State of U.P. & Ors. reported in 2022(11) ADJ 669, Anshu Rani Versus State of U.P. & Ors. reported in (2019) 3 UPLBEC 1741 and Satakshi Mishra versus State of U.P. & Ors. reported in 2022(10) ADJ 333.**

A perusal of aforesaid judgments make it evident that the aforesaid issue has

already been decided by Coordinate Benches of this Court.

In the case of **Anupam Yadav (supra)** the following has been held as under:-

"24. Thus the State of U.P. in exercise of powers granted under Section 28 has already issued Government Order dated 8.12.2008 and 24.3.2009 adopting the provisions of the Maternity Benefits Act, 1961 for the benefit of its employees. Further, the modifications made by the Central Government have also been adopted by the State of U.P. in its Government Order dated 11.4.2011 reproduced hereinabove. Once the provisions of the Maternity Benefit Act, 1961 has been adopted by the State of U.P. as held by this Court then the said Act of 1961 would apply with full force irrespective of the provisions contained in the Financial Handbook which is merely an executive instruction and would in any case be subsidiary to the legislation made by the Parliament.

25. In conclusion it can safely be said that the Maternity Benefit Act, 1961 has been enacted by the Parliament in exercise of powers under Entry 24 in List-III of the Seventh schedule of the Constitution of India and to secure the goals stated in Articles 38, 39, 42 and 43 of the Constitution of India and also to give effect to the provisions contained in Article 15 (3) of the Constitution. The provisions of Financial Handbook are merely executive instructions and would be subsidiary to the Act of the Parliament and in case of any inconsistency, the statutory enactment framed by the Parliament would prevail and hence, the provisions of the Maternity Benefit Act, 1961 would prevail over the provisions of the Financial Handbook and consequently, the provisions of Rule 153 (1) of the Financial Handbook Volume II to IV are read down with regard to the admissibility of leave to a women with regard to second pregnancy which would be governed by the Maternity Benefit Act, 1961 and not Rule 153 (1) of the Financial Handbook Volume II to IV. The State Government already having adopted the provisions of the Maternity Benefit Act, 1961 as recorded by the Division Bench of this Court and followed by the Single Bench in the case of Anshu Rani versus State of U.P. passed in Writ-A No. 3486 of 2019, it is clear that the provisions of the Maternity Benefit Act, 1961 would prevail over any law.

26. In the case at hand the maternity leave so applied by the petitioner has been rejected simply by stating "Anumanya Nahi". Learned counsel for the respondents has submitted that the petitioner is not entitled to the maternity leave in terms of the restriction imposed by the second proviso of Rule 153(1) of the Financial Handbook to the effect that second

maternity leave cannot be granted where there is difference of less than two years between the end of the first maternity leave and grant of second maternity leave. Admittedly, the first maternity leave of the petitioner was availed and she gave birth to a male child on 4.1.2021. The petitioner became pregnant again and applied again for maternity leave on 11.6.2022. The second maternity leave to the petitioner has been refused by the impugned order. However, once the 1961 Act does not contain any such stipulation, the Basic Education Officer manifestly erred in rejecting the leave to the petitioner more particularly when Section 27 of the 1961 Act provides that it is the 1961 Act which would be applicable notwithstanding anything in consistent contained in any other law or contract of service."

The aforesaid reasoning has also been indicated by Coordinate Benches of this Court in the other two judgments as well to the effect that the provisions of Maternity Benefit Act, 1961 being a beneficial legislation would have overriding effect over the provisions of Financial Handbook. It was being specifically held that Second Maternity Leave within a period of two years from the grant of First Maternity Leave is admissible.

Learned Standing Counsel, while relying upon the provisions of Financial Hand Book Part II to IV read with Rule 153, has opposed the contention of the petitioner.

Perused the record as well as the aforesaid judgments.

In the case of **Anupam Yadav (supra)**, as is evident from a perusal of the judgment, there is no bar for an employee in seeking a Second Maternity benefit within a period of two years from the grant of the first maternity benefit.

Accordingly, the impugned order dated 04.04.2026 passed by respondent No. 2, contained in Annexure No. 1, is hereby quashed. A writ of mandamus is issued commanding respondent No. 2 to sanction maternity leave to the petitioner w.e.f. 06.04.2026 to 02.10.2026 forthwith, along with all consequential service benefits.

Resultantly, the petition succeeds and is **allowed at the admission stage itself**. Costs shall be borne by the parties.

April 16, 2026
Vinay/-

(Karunesh Singh Pawar,J.)