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

CNR No. DLHC010422512026

+ **W.P.(C) 13032/2026**

DR. GEETA RANI

.....Petitioner

Through: **Mr. Arvind Kumar, Adv.**
versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr. Kartik Bhatnagar, CGSC, Mr. Deepansh Sharma, GP, Ms. Astha Prasad, Mr. Mansij Arya, Mr. Dinesh Vishwakarma and Ms. Somya Mendiratta, Advs. for R-1.**
Mr. Ritik Dwivedi, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

HON'BLE MS. JUSTICE SHAIL JAIN

ORDER

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23.09.2026

1. Learned counsel for the petitioner relies upon the decision of the Supreme Court in ***K. Umadevi vs. Government of Tamil Nadu & Ors.*** 2025 INSC 781 to contend that the maternity leave for the third child was wrongly denied.
2. The brief facts of the case in hand are that the petitioner delivered twins from the first pregnancy in the year 2024. During the second pregnancy the petitioner applied for maternity leave which was rejected relying upon Rule 43 of the Central Civil Services (Leave) Rules, 1972 (for short 'CCS Rules'). The relevant portion of the clause is reproduced as



under:

“43. Maternity Leave

(1) A female Government servant (including an apprentice) with less than two surviving children may be granted maternity leave by an authority competent to grant leave for a period of (180 days) from the date of its commencement.

(2) During such period, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

NOTE :- In the case of a person to whom Employees' State Insurance Act, 1948 (34 of 1948), applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

(3) Maternity leave not exceeding 45 days may also be granted to a female Government servant (irrespective of the number of surviving children) during the entire service of that female Government in case of miscarriage including abortion on production of medical certificate as laid down in Rule 19:

Provided that the maternity leave granted and availed of before the commencement of the CCS(Leave) Amendment Rules, 1995, shall not be taken into account for the purpose of this sub-rule.

(4) (a) Maternity leave may be combined with leave of any other kind.

(b) Notwithstanding the requirement of production of medical certificate contained in sub-rule (1) of Rule 30 or sub-rule (1) of Rule 31, leave of the kind due and admissible (including commuted leave for a period not exceeding 60 days and leave not due) up to a maximum of two year may, if applied for, be granted in continuation of maternity leave granted under sub-rule (1).

(5) Maternity leave shall not be debited against the leave account.

(6) In case of surrogacy, the surrogate, as well as the



commissioning mother with less than two surviving children, may be granted maternity leave of 180 days, in case either or both of them are Government servants.

Note 2:-The expression ‘surrogate mother’ shall mean the woman who bears the child on behalf of the commissioning mother.”

3. The facts before the Supreme Court in ***K. Umadevi*** (supra) were materially different. The petitioner therein had two biological children from the earlier marriage which was prior to entry into service. After entering service, from the subsisting marriage the petitioner had the first child. It was in this factual background that the benefit of maternity leave was extended.
4. In the decision of Madras High Court in ***Union of India vs. M. Asiya Begum***, 2020 SCC Online Mad 29118 relied upon by learned counsel for the respondents, the respondent/employee had delivered twins and on the second occasion had a third child. The Madras High Court while allowing the writ appeal had not considered that the entitlement under Rule 43 of the CCS Rules is not based on number of deliveries but the pivotal point is the number of surviving children at the time of applying for maternity leave.
5. At this stage, learned counsel for the petitioner seeks time to assist the court on the challenge to the *vires* of Rule 43 of the CCS Rules.
6. Put up on 06.10.2026.

AVNEESH JHINGAN, J

SHAIL JAIN, J

SEPTEMBER 23, 2026/kp