IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

MONDAY, THE 5TH DAY OF JUNE 2023 / 15TH JYAISHTA, 1945

OP (CAT) NO. 340 OF 2017

AGAINST THE ORDER DTD.13.7.2017 IN OA 729/2016 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

PETITIONERS/RESPONDENTS 2 – 5 IN THE O.A.:

1 THE CHAIRMAN AND MANAGING DIRECTOR,
BHARAT SANCHAR NIGAM LTD.,
CORPORATE OFFICE, SANCHAR BHAVAN, HC MATHUR LANE,
NEW DELHI-110 001.

2 THE CHIEF GENERAL MANAGER (TELECOM),
BSNL, KERALA,THIRUVANANTHAPURAM-695 033.

3 THE GENERAL MANAGER (TELECOM),
BSNL,PALAKKAD TELECOM DIVISION,PALAKKAD-678014.

4 THE ACCOUNTS OFFICER (Estt),
OFFICE OF THE GENERAL MANAGER(TELECOM),
BSNL, PALAKKAD-678014.

BY ADV SRI.T.SANJAY, SC, BSNL

RESPONDENTS/APPLICANT & 1st RESPONDENT IN THE O.A:

1 C.R.VALSALAKUMARI
W/O.BHAVADAS.K,TELECOM MECHANIC OFFICE OF THE SUB DIVISIONAL ENGINEER,CENTRAL II,BSNL CTO BUILDING,HPO ROAD,PALAKKAD-1.RESIDING AT:Q.NO.B4/I,STAFF QUARTERS,GROUND FLOOR,KALLEPULLY,PALAKKAD-678005.

2 THE SECRETARY TO THE GOVT.OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING,NEW DELHI-110001.

BY ADVS.GOVINDASWAMY T C
SRI.T.V.VINU, CGC
SMT.NISHITHA BALACHANDRAN

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 05.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

(CR)

ALEXANDER THOMAS & C. JAYACHANDRAN, JJ.

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O.P.(CAT)No.340 of 2017

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Dated this the 5th day of June, 2023

JUDGMENT

C. Jayachandran, J.

Whether Section 43-C of the Central Civil Service (Leave) Rules, 1972 (for short, 'CCS Rules") read with Annexure A5(a) clarification (O.M.No.13018/2/2008) dated 29.9.2008 stipulates that the Child Care Leave (for short, 'CCL') facility is restricted to the two eldest surviving children alone, especially when such leave facility has not been availed in respect of the first two children, is the question involved in this O.P. In the order impugned, the Tribunal declared Annexure-A5(a) order as unconstitutional and granted relief to the third child of the applicant/employee in the given facts, which order is under challenge at the instance of the BSNL/employer.

2. The essential facts are referred as under:-

The applicant in the O.A. (1st respondent herein) is working as Telecom Mechanic in the Palakkad Telecom Division. She applied for CCL in respect of her third child, for a period of 176 days in different spells between 24.6.2013 and 10.10.2015, which was originally granted. However, as per Annexure-A2 communication issued by the Accounts Officer (4th respondent in the O.A.), the CCL availed by the applicant was

directed to be regularised as against eligible earned leave and half pay leave, with a further direction to recover the excess payment. Although the applicant preferred Annexure-A8 representation against Annexure-A2, the same was dismissed vide Annexure-A1. The legal issue as to whether the CCL Rule can be availed in respect of the third child has to be appreciated in the peculiar facts of the applicant, which is referred to here below. The applicant married one Vasu earlier, which, however, culminated in a decree of divorce, vide Annexure-A3 judgment. She had two children in that wedlock. However, no service benefits in respect of two children were availed by the applicant, for the reason that the said children were residing along with her ex-husband Vasu all throughout. According to the applicant, the said children were never dependent on her. After divorce, the applicant married Sri.Bhavadas in the year 1999 and a child in that relationship was born on 19.11.2000. In the above referred peculiar facts, it is the claim of the applicant that she is entitled to CCL in respect of the third child above referred, born in the second marriage, especially for the reason that she had not availed any CCL, or for that matter any other service benefit, in respect of her first two children born in the earlier wedlock.

3. On law, the petitioner would maintain that Annexure-A4 order which introduced CCL in the year 2008 only stipulates grant of CCL for a

maximum period of two years (i.e., 730 days) during the entire service for taking care of upto two children, without mandating that the said two children should be the elder ones. Annexure-A5(a) order dated 29.9.2008 which is issued in purported clarification of Annexure-A4 stipulates that CCL shall be admissible for the two eldest surviving children only, which according to the applicant, is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution. While Annexure-A4 is issued pursuant to the decisions taken by the Government, with the approval of the President of India, Annexure-A5(a) is issued by a lower functionary and a clarification in the nature of Annexure-A5(a), which has the effect of amending and modifying Annexure-A4, is arbitrary and violative of the constitutional guarantees, is the applicant's contention. The term 'eldest' is conspicuously absent in Annexure-A4, which only purports to limit the benefits to the two children of the employee, without any further stipulation that the said two children should be the eldest ones, wherefore, Annexure-A5(a), insofar as it purports to mandate that the said two children should necessarily be the elder ones, is bad in law.

4. Respondents 1 to 4, representing the BSNL filed counter/reply statement harping upon Annexure-A5(a) clarification. The said respondents contended that the CCL Rules does not distinguish children

based on marriages (successful/broken), but is restricted only to two eldest surviving children, wherefore re-marriage cannot have any effect on the Rule and its interpretation. On facts, it was also clarified that the applicant had availed maternity leave benefit in respect of her first two children born in the earlier marriage. We could not find any specific answer in the reply preferred by respondents 1 to 4 on the contentions touching the vires of Annexure-A5(a) clarification.

5. The 5th respondent in the O.A. is the Secretary to the Government of India, Department of Personnel & Training, who initially filed Miscellaneous Application No.180/2016 to delete him from the array of parties and to implead the Department of Telecommunications, Ministry of Electronics & Information Technology as an additional respondent, if necessary. The said application was, however, dismissed by the Tribunal, as is decipherable from paragraph no.5 of the impugned order. Thereafter, the 5th respondent filed a counter/reply statement emphasizing that Rule 43-C benefit is granted only for the two eldest surviving children, which is sought to be fortified by a further contention that the rationale behind the Rule is to align the same with the two children norm laid down in the National Population Policy.

6. The Tribunal, upon analysis of the rival contentions and examination of the relevant Rules, found in paragraph no.11 of the impugned order that Annexure-A5(a) O.M. cannot alter, modify or insert something which was not originally provided for in Annexure-A4, as the same would have the effect of amending Annexure-A4. The Tribunal attached primacy to Annexure-A4 as it manifests an order of the President and found that the same cannot be altered or modified except by another Presidential Order. Accordingly, Annexure-A5(a) O.M. and Annexures-A1 and A2 communications depriving CCL to the applicant were quashed and set aside by the impugned order.

7. Heard Sri.T.Sanjay, learned Standing Counsel on behalf of the petitioners and Sri.T.C.Govindswamy, duly instructed by Adv.Kala.T.Gopi for the 1st respondent. Perused the records.

8. The origin, genesis and introduction of Child Care Leave has already been narrated in detail in the impugned order of the Tribunal and we therefore choose not to repeat the same. Suffice to notice that pursuant to Annexure-A4 order, the CCS (Leave) Rules, 1972 was amended by introducing Rule 43-C, the relevant portion of which reads as follows:-

> *"**43-C. Child Care Leave.** -(1) A woman Government servant having minor children below the age of eighteen years and who has no earned leave at her credit, may be granted child care leave by an authority competent to grant leave, for a maximum period of two years, i.e., 730 days during the entire service for taking care of upto two children whether for rearing or to look after any of their needs like examination, sickness, etc.*
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> *(2) xxx xxx xxx*
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> *(3) xxx xxx xxx*
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> *(4) xxx xxx xxx*
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> *(5) xxx xxx xxx*
>
> *(6) xxx xxx xxx"*

9. Now let us advert to the controversial clarification order in Annexure-A5(a). As is evident from Annexure-A5(a), clarification was necessitated in answer to the question, whether Child Care Leave would be admissible for the third child below the age of 18 years. Annexure-A5(a) also purports to lay down the procedure for grant of CCL, about which we are not concerned in the given facts. It is accordingly that Annexure-A5(a) clarified as under:

> *"1. Child Care Leave shall be admissible for two eldest surviving children only."*

10. Annexure-A5(a) was subsequently incorporated to Rule 43-C as per DOPT Notification No.13018/4/2011-Estt.(L), dated 27.08.2011. The amended rule 43-C reads as follows:

> *"**43-C. Child Care Leave***
>
> *(1) Subject to the provisions of this rule, a female Government servant and single male Government servant may be granted child care leave by an authority competent to grant leave for a maximum period of seven hundred and thirty days during entire service for taking care of two eldest surviving children, whether for rearing or for looking after any of their needs, such as education, sickness and the like.*
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> *(2) xxx xxx*
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> *(3) xxx xxx*
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> *(4) xxx xxx*
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> *(5) xxx xxx*
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> *(6) xxx xxx*
>
> *(7) xxx xxx"*

However, we are not called upon to examine the applicability of the amended rule, as the present claim arose at a time when the unamended rule, as extracted in paragraph no.8 above, was in vogue.

11. The answer to the present imbroglio would essentially depend upon the interpretation of Annexure-A4 (subsequently engrafted to Rule 43-C as

it stood then) and Annexure-A5(a) clarification order. As in the case of grant of maternity benefit, CCL is also a beneficial provision to advance the interest of woman and children as envisaged in Article 15(3) of the Constitution. As referred to in the impugned order, CCL benefit has constitutional underpinnings in accord with Part-IV of the Constitution. The directive principle in Article 45 stipulates that the State shall endeavour to provide early childhood care and education for all children until they complete the age of 16 years. Article 3 of the **Convention on the Elimination of All Forms of Discrimination against Woman** (CEDAW), ratified by 189 countries including India, stipulates that the countries must take all appropriate measures to guarantee that woman and girls can enjoy their human rights and fundamental freedoms in every aspect of society. While Article 12 of the international convention guarantees equal access to Health Care and Family Planning for Woman, Article 16 *inter alia* guarantees equal rights for woman in their choice of marriage and any matter relating to birth, adoption and raising of children. Article 25(2) of the **Universal Declaration of Human Rights** (UDHR) envisage that motherhood and childhood are entitled to special care and assistance. The **United Nations Convention on the Rights of the Child** recognizes the need for special care and safe-guards for a child before, as well as, after birth and stipulates in Article 18(2) that the State

shall render appropriate assistance to parents in the performance of their child-raring responsibilities. Further, Article 18(3) require the State to take all appropriate measures that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. It is in assumption of the fundamental principles and obligations as referred above that Annexure-A4 order has been issued, which was later engrafted to Rule 43-C as it stood then. Needless to say that the beneficial provision in Rule 43-C is two dimensional, one from the perspective of the mother and the other, more importantly, of the child.

12. Now, coming to the interpretation of a Rule, we have the essential choice between the literal interpretation and purposive interpretation, the latter of which has its historical source in the mischief rule enunciated in Heydon's case [76 ER 637].

13. A Constitution Bench of the Hon'ble Supreme Court in **Abhiram Singh v. C.D. Commachan** [(2017) 2 SCC 629] took note of the dichotomy between the literal and purposive interpretation of statute and concludes in paragraph no.37 that the pendulum has swung towards purposive methods of construction and quoted the words of Lord Millett as follows:

"We are all purposive constructionists now."

('Construing Statutes' [(1999) 2 Statute Law Review 107]).

14. However, quoting **Bennion** on Statutory Interpretation, the Supreme Court refers to the recognition of the purposive construction of statute ever since the 17th century [see **Stock v. Frank Jones (Tipton) Ltd. -** (1978) 1 WLR 231]. It is apposite to quote the following excerpts from **Abhiram Singh** (supra):-

> *"38. We see no reason to take a different view. Ordinarily, if a statute is well-drafted and debated in Parliament there is little or no need to adopt any interpretation other than a literal interpretation of the statute. However, in a welfare State like ours, what is intended for the benefit of the people is not fully reflected in the text of a statute. In such legislations, a pragmatic view is required to be taken and the law interpreted purposefully and realistically so that the benefit reaches the masses. Of course, in statutes that have a penal consequence and affect the liberty of an individual or a statute that could impose a financial burden on a person, the rule of literal interpretation would still hold good".*

15. The necessity to resort to a liberal interpretation consistent with purpose sought to be achieved in beneficial legislation has been underscored by the Hon'ble Supreme Court time and again. In **Workmen of American Express International Banking Corporation v. Management of American Express International Banking Corporation** [(1985) 4 SCC 71], O. Chinnappa Reddy, J. speaking for the Bench spoke thus:

> *"4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the 'colour', the 'content' and the 'context' of such statutes (we have borrowed the words from Lord Wilberforce's opinion in Prenn v. Simmonds). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. ....."*
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> *[Underlined by us for emphasis]*

16. In **Surendra Kumar Verma v. The Central Government Industrial Tribunal-Cum-Labour Court** [(1981) 4 SCC 433], the Hon'ble Supreme Court held that 'bread and butter' statutes must, of necessity, receive a broad interpretation.

17. In **Badshah v. Urmila Badshah Godse and another** [(2014) 1 SCC 188], the question before the Hon'ble Supreme Court was the right to maintenance of a second wife, who married her husband during the subsistence of his first marriage, which was but suppressed to her. Confirming the grant of maintenance, A.K.Sikri, J. speaking for the Bench emphasized the need for adopting purposive interpretation while dealing with an application from the marginalized sections of the society. The Hon'ble Supreme Court held that the purpose is to achieve social justice which is the constitutional vision, enshrined in the preamble of the constitution. Reiterating the duty of the court to advance the cause of justice, it was held that the court while giving interpretation to a particular provision is supposed to bridge the gap between the law and society. In paragraph no.17 of the judgment, the Hon'ble Supreme Court extracted the following excerpts from the classic work of **Benjamin N.Cardozo** titled '*The Nature of the Judicial Process*'.

> *"....no system of jus scriptum has been able to escape the need of it", and he elaborates: "It is true that Codes and Statutes do not render the Judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and the discovery of a meaning which, however, obscure and latent, had none the less a real and ascertainable pre- existence in the legislator's mind. The process is, indeed, that at times, but it is often something more. The ascertainment of intention may be the least of a judge's troubles in ascribing meaning to a stature."*

18. The Hon'ble Supreme Court also referred to and extracted the following from the book '*The Nature and Sources of the Law' by* **John Chipman Gray**:

> *"The fact is that the difficulties of so-called interpretation arise when the legislature has had no meaning at all; when the question which is raised on the statute never occurred to it; when what the Judges have to do is, not to determine that the legislature did mean on a point which was present to its mind, but to guess what it would have intended on a point not present to its mind, if the point had been present."*

19. In **K.H.Nazar v. Mathew.K.Jacob and others** [(2020) 14 SCC 126] the Hon'ble Supreme Court held as under, as regards the construction

of beneficial legislation:

> *"11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. The Act should receive a liberal construction to promote its objects. Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. .....*
>
> *12. xxx xxx xxx.....*
>
> *13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified and then a construction that suppresses the problem and advances the remedy should be adopted. It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction It was observed in Shivram A.Shiroor v. Radhabai Shantram Kowshik [(1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly."*

20. The legal position has been recently reiterated by the Hon'ble Supreme Court by a Bench comprising of the Chief Justice Dr.Dhananjaya.Y.Chandrachud, J. in **Deepika Singh v. Central Administrative Tribunal and Ors.** [AIR 2022 SC 4108] on facts more or less similar to the case at hand. There, the issue under consideration was the entitlement for maternity benefit in respect of the third child, which was rejected at the first instance on the premise that CCL benefit was availed in respect of the first two children, a factual position just converse to that of the present one. After referring to **K.H.Nazar, Workmen case** and **Badshah** (supra), as also to **UDHR** and **CEDAW**, the Hon'ble Supreme Court held on facts as follows:-

> *"23. In alignment with the Constitution as well as the treaties mentioned above, Rule 43(1) of the Rules of 1972 contemplates the grant of maternity leave for a period of 180 days. Independent of the grant of maternity leave, a woman is also entitled to the grant of child care leave for taking care of her two eldest surviving children whether for rearing or for looking after any of their needs, such as education, sickness and the like. Child care leave under Rule 43-C can be availed of not only at the point when the child is born but at any subsequent period as is evident from the illustrative causes which are adverted to in the provisions, which have been extracted in the earlier part of the judgment. Both constitute distinct entitlements.*

24. The facts of the present case indicate that the spouse of the appellant had a prior marriage which had ended as a result of the death of his wife after which the appellant married him. The fact that the appellant's spouse had two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child. The fact that she was granted child care leave in respect of the two biological children born to her spouse from an earlier marriage may be a matter on which a compassionate view was taken by the authorities at the relevant time. Gendered roles assigned to women and societal expectations mean that women are always pressed upon to take a disproportionate burden of childcare work. According to a 'time-use' survey conducted by the Organisation for Economic Co-operation and Development (OECD), women in India currently spend upto 352 minutes per day on unpaid work, 577% more than the time spent by men. Time spent in unpaid work includes childcare. In this context, the support of care work through benefits such as maternity leave, paternity leave, or child care leave (availed by both parents) by the state and other employers is essential. Although certain provisions of the Rules of 1972 have enabled women to enter the paid workforce, women continue to bear the primary responsibility for childcare. The grant of child care leave to the appellant cannot be used to disentitle her to maternity leave under Rule 43 of the Rules of 1972.

> *25. Unless a purposive interpretation were to be adopted in the present case, the object and intent of the grant of maternity leave would simply be defeated. The grant of maternity leave under Rules of 1972 is intended to facilitate the continuance of women in the workplace. It is a harsh reality that but for such provisions, many women would be compelled by social circumstances to give up work on the birth of a child, if they are not granted leave and other facilitative measures. No employer can perceive child birth as detracting from the purpose of employment. Child birth has to be construed in the context of employment as a natural incident of life and hence, the provisions for maternity leave must be construed in that perspective."*

21. It is noteworthy that the maternity benefit is also part of Rule 43 of the CCS (Leave) Rules, 1972, which also stipulates that the benefit is available to a female Government servant with less than two surviving children. As in the present case, the benefit was sought in respect of the third child, of which the third one alone was the biological child of the appellant - Deepika Singh. The benefit was sought to be deprived on the premise that Rule 43(1) contemplates maternity leave to be given to a female Government servant with less than two surviving children, as also for the reason that CCL benefit has been availed in respect of the first two children born to her husband in his first marriage. We are of the firm

opinion that the principle laid down in **Deepika Singh** (supra) is on all fours to the given facts.

22. Coming back to the legal issue involved in this case, a perusal of Annexure-A4, as engrafted in Rule 43-C as it stood then, would leave no room for any doubt that the CCL benefit is available for 'two children', no matter whether they are 'eldest' or not. The only stipulation is that the Rule is available 'upto two children'. Annexure-A5(a) seeks to clarify that CCL shall be admissible for two eldest surviving children only. As already referred, the clarification was necessitated as an answer to the question whether CCL would be admissible for the third child. This question pre-supposes the factual premise that the benefit of CCL has been availed in respect of the eldest two children. In such factual matrix, the question posed is whether the female employee is entitled to CCL benefit in respect of her third child. Annexure-A4/Rule 43-C itself is unambiguous that the benefit is available for taking care of upto two children. Consistent with the mandate in Annexure-A4/Rule 43-C, Annexure-A5(a) clarifies that the benefit is available for the two eldest surviving children. Annexure-A5(a), if construed consistent with the purpose of clarification, would only imply that CCL benefit is restricted to the eldest two surviving children and not to the third child, envisaging that the benefit is availed in respect of the first

two children. The order of the children is of no moment and the clarification does not intend to attach any stigma to the third child onwards. It only purports to put a financial cap by stipulating the extent upto which the benefit is available. We are not of the opinion that Annexure-A5(a) is in serious conflict with the benefit contemplated in Annexure-A4 order/Rule 43-C as it stood then. Annexure-A5(a) only purports to reiterate the statutory upper limit of the benefit being available to two children only. Per contra, if we are to perceive a serious dichotomy between Annexure-A4 and Annexure-A5(a) orders, then Annexure-A5(a) may run foul of the Constitutional guarantees, besides exceeding the contemplation of the parent order in Annexure-A4, which manifests Presidential assent.

23. We specifically note the factual distinction as available in the given facts, which is comparable to the facts in **Deepika Singh** (supra). The 1st respondent herein had not availed CCL benefit in respect of her first two children born in her earlier wedlock. The benefit is claimed only with respect to her third child born in the second wedlock. Therefore, as against her entitlement to claim the benefit in respect of her two children, the 1st respondent has limited her claim in respect of one child only. An interpretation *per contra* based on Annexure-A5(a) would negate the whole purpose of introducing CCL benefit, which has its overtone in the context of

human rights, the directive principles of State policy as envisaged by the Constitution and the UN declarations afore-referred.

24. In the light of the above interpretation to Annexure-A5(a), we are of the opinion that it is not necessary to set aside the said order, especially so in the peculiar facts of the given case.

25. Although learned counsel for the petitioners placed heavy reliance upon the judgment of the Hon'ble Supreme Court in **Kakali Ghosh v. Chief Secretary, Andaman and Nicobar Administration and others** – [(2014) 15 SCC 300] to contend that Annexure-A5(a) circular dated 29.9.2008 was approved and relied upon by the Supreme Court, we are not in a position to endorse the same. The question which fell for consideration in **Kakali Ghosh** (supra) was whether CCL benefit can be claimed for 730 days at a stretch. Referring to Rule 43-C (as it stood originally) and Annexure-A5(a) clarification circular, the Supreme Court held that CCL can be claimed for a continuous period of 730 days. The question whether CCL benefit can be claimed in respect of the third child never arose for consideration in **Kakali Ghosh**, wherefore, it cannot be claimed that Annexure-A5(a) circular has been approved by the Supreme Court, merely because the circular is referred to and quoted in the said

judgment. That apart, approval, if any, of Annexure-A5(a) circular cannot be gainsaid by the petitioners, in the light of our interpretation to Annexure-A5(a).

26. Before parting with the judgment we should necessarily recognize the exalted position of woman in our society. We quote the following observations of the Hon'ble Supreme Court in **Municipal Corporation of Delhi v. Female Workers (Muster Roll) and another** [(2000) 3 SCC 224]:

> *"33.....Women who constitute almost half of the segment of our society have to be honoured and treated with dignity at places where they work to earn their livelihood. Whatever be the nature of their duties, their avocation and the place where they work, they must be provided all the facilities to which they are entitled. To become a mother is the most natural phenomena in the life of a woman. Whatever is needed to facilitate the birth of child to a woman who is in service, the employer has to be considerate and sympathetic towards her and must realise the physical difficulties which a working woman would face in performing her duties at the workplace while carrying a baby in the womb or while rearing up the child after birth. The Maternity Benefit Act, 1961 aims to provide all these facilities to a working woman in a dignified manner so that she may overcome the state of motherhood honourably, peaceably, undeterred by the fear of being victimised for forced absence during the pre- or post-natal period."*

27. We therefore confirm the order impugned affording the CCL benefit to the 1st respondent, but modifying the same to the limited extent of doing away with the order setting aside Annexure-A5(a).

The Original Petition is disposed of as above.

Sd/-

ALEXANDER THOMAS,
JUDGE

Sd/-

C. JAYACHANDRAN,
JUDGE

skj

APPENDIX OF OP (CAT) 340/2017

PETITIONERS' ANNEXURES:

EXHIBIT P1	TRUE COPY OF O.A.No.729/2016 DTD.23.8.2016
ANNEXURE A1	TRUE COPY OF LETTER BEARING NO.E-55/ GENERAL CORR/CCL/12 DATED 19.03.2016, ISSUED BY THE 4TH RESPONDENT.
ANNEXURE A2	TRUE COPY OF LETTER BEARING NO.E-55/ GENERAL CORR/2014-15/12 DATED 02-08-2016 ISSUED BY THE 4TH RESPONDENT.
ANNEXURE A5(a)	GOVT.OF INDIA, DEPARTMENT OF PERSONNEL & TRAINING OM NO.13018/2/2008-ESTT.(L) DATED 29.09.2008.
ANNEXURE A3	TRUE COPY OF THE ORDER IN OP(MARRIAGE) NO.137/97 DATED 05.03.1998, RENDERED BY THE SUBORDINATE JUDGE OF PALAKKAD.
ANNEXURE A4	TRUE COPY OF OM NO.13018/2/2008-ESTT(L) DATED 11.09.2008.
ANNEXURE A5 SERIES	TRUE COPY OF CLARIFICATIONS ISSUED BY ORDERS DATED 29.09.2008, 18.11.2008, 02.12.2008, 07.09.2010, 30.12.2010, 03.03.2010 AND 05.06.2014.
ANNEXURE A6	TRUE COPY OF OFFICE ORDER NO.1-33/2012 PAT(BSNL)/CCL DATED 08.03.2013.
ANNEXURE A7	TRUE COPY OF COMMUNICATION BEARING NO.E-55/GENERAL CORR/CCL/10 DATED 01.02.2016, ISSUED BY THE ACCOUNTS OFFICER, 4TH RESPONDENT.
ANNEXURE A8	TRUE COPY OF LETTER DATED 25.02.2016, ADDRESSED TO THE 4TH RESPONDENT.
EXHIBIT P2	COPY OF THE REPLY STATEMENT DATED 24.04.2017 FILED BY BSNL.
EXHIBIT P3	PHOTOCOPY OF REPLY STATEMENT DATED 27.12.2016 FILED BY 5TH RESPONDENT
EXHIBIT P4	TRUE COPY OF THE MA NO.180/16 DATED 21.10.2016
EXHIBIT P5	TRUE COPY OF THE ORDER IN OA NO:729/2016 DATED 13.07.2017 OF THE C.A.T.ERNAKULAM BENCH.