



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

Reserved on: 14.10.2025
Pronounced on: 12.11.2025

+ **W.P.(C) 10215/2019**

SMT. RAJESH RATHI

.....Petitioner

Through: Mrs. Gouri Karunadas Mohanti,
Mr. Suraj Kumar Singh
Ms.Saumya Shikkha, and
Mr.Pawan Kumar Sharma
Advs.

versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh Ms.Aliza Alam and
Mr.Mohnish Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. This petition has been filed challenging the Order dated 09.07.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 2478/2018, titled ***Smt. Rajesh Rathi v. GNCTD & Ors.***, whereby the learned Tribunal dismissed the O.A. filed by the petitioner.
2. The petitioner had filed the above O.A. seeking the following reliefs:



“(a) Direct the respondents to grant CCL, which are in credit of the applicant as per service record.

(b) Direct the respondent to convert all the EOL taken of applicant during the aforesaid period i.e. from July 2015 to till date into CCL for which, the applicant is entitled as per rules.”

FACTS OF THE CASE

3. In a nutshell, the background of the case is that the petitioner is employed as a TGT (Mathematics) at the Government Co-Ed Senior Secondary School, Hiran Kudna, New Delhi. She sought Child Care Leave (in short, ‘CCL’) on multiple occasions to take care of her two children who were studying in Classes X and XII, while her husband, a Marine Engineer, remained out of India for long durations due to work.

4. The petitioner first applied for CCL for 149 days (03.08.2015 to 29.12.2015) to the Principal/respondent no. 4 on 14.07.2015, which was objected to by the respondent no.4, that is, the Principal of the school, *vide* letters dated 16.07.2015 and 23.07.2015, on the ground that no substitute Mathematics Teacher was available in the school, and the said request could only be allowed after arranging a substitute Mathematics Teacher, as the same is essential for the welfare of the students.

5. The petitioner again applied for CCL for a period of 114 days from 07.09.2015 to 29.12.2015. It is averred that the said request of petitioner was again not granted, however, the respondent no.4, *vide* letter dated 11.09.2015, informed the higher authorities that he had no objection to the grant of CCL to the petitioner if a substitute or guest



teacher could be arranged.

6. The petitioner was later granted CCL for 78 days from 16.01.2016 to 02.04.2016.

7. It is averred that as her children were appearing in Board Exams, the petitioner availed Earned Leave (in short, 'EL') from 06.03.2017 to 30.04.2017. Thereafter, on 21.05.2017, she applied for Extraordinary Leave (in short, 'EOL'), since her request for CCL was not being considered. The respondent no.4, however, rejected even the said application on the ground that the CCL request was still pending, thereby, compelling the petitioner to again avail EL from 03.07.2017 to 31.07.2017.

8. It is the petitioner case that on 02.08.2017, she again applied for CCL but was compelled to give an undertaking not to seek CCL in future. On this condition, 15 days CCL was granted to her, later extended by 12 days, that is, from 02.08.2017 to 28.08.2017, a total of 27 days.

9. The petitioner claims that as her son remained unwell, she again sought CCL from 17.08.2017 to 28.08.2017, but the request was not considered. In the meantime, her request for EOL was approved by an Order dated 14.09.2017, and 303 days' EOL was sanctioned for the period 02.07.2017 to 30.04.2018.

10. Being aggrieved by the denial of CCL, the petitioner filed the O.A NO. 2478/2018 before learned Tribunal, seeking directions to respondents to convert all the EOL taken into CCL. The learned Tribunal, *vide* the Impugned Order, dismissed the said O.A. on the ground that CCL cannot be claimed as a matter of right, the same



being subject to the smooth functioning of the school, and that long spells of CCL cannot be permitted if they disrupt such functioning.

We may quote from the Impugned Order as under:

“7. Further, as shown by the counsel for the respondents, the applicant had asked for child care leave for taking care of her children, whose date of births are 10.11.1997 and 7.7.2000 and were of the age of 19+ and 17+ during the period when she asked for the same. Quite simply, the applicant asked for CCL as per her convenience and, in fact, the applicant asked for CCL for very long periods at a time, i.e., 149 days, 114 days, 465 days and 434 days at a time. We note that the respondents tried to accommodate the request and did sanction her CCL for 78 days, 15 days and 27 days at different periods of time after taking into account the need of the students of their school as no alternative Maths teacher is available to them. Hence, it cannot be said by any stretch of imagination that respondents were unfair to the applicant or were harassing her. Further, the application for EOL was given by the applicant on her own accord and the same was sanctioned by the respondents. After seeking EOL, there is no ground for her to turn around and now seek a declaration that the respondents should have sanctioned the full CCL she asked for over long continuous spells of time despite knowing the fact that she was one of the only two Maths Teachers in the said School. Applicant had asked for the leave mostly in the months of August to December, which are very important periods for completing the syllabus. In one case, she asked for continuous leave for over a year. Further, as per the said OM dated 18.11.2018 itself, it is clear that CCL cannot be demanded as a matter of right, as the same is also to be seen in the context of also being subject to smooth functioning of the school and this does not mean that long spells CCL should be allowed



if it disrupts the functioning of a school.

8. In the result, for the foregoing reasons, this Court does not find any merit in the present OA and the same is dismissed accordingly. There shall be no order as to costs.”

11. Aggrieved thereby, the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

12. The learned counsel for the petitioner submits that the Impugned Order passed by the learned Tribunal is unsustainable both in law and on facts. It is urged that the learned Tribunal failed to appreciate the true scope and intent of Rule 43-C of Central Civil Services (Leave) Rules, 1972 (FRSR Part III) (hereinafter referred to as the ‘Rules’), which provides for a right to the grant of CCL to enable a woman employee to take care of the needs of her children, such as education, sickness and other exigencies. Hence, the denial of such leave to the petitioner, despite fulfillment of all statutory conditions, is without justification.

13. The learned counsel for the petitioner further contends that the petitioner had sought CCL for longer durations in one spell only to ensure that a guest teacher could be appointed for a fixed period, thereby, avoiding repeated disruption of classes and ensuring academic continuity for the students. It is argued that this approach demonstrated *bona fides* on the part of the petitioner and a genuine concern for the interest of students.

14. She further urges that the action of the respondents is arbitrary



and *mala fide*, inasmuch as they took the plea of shortage of Mathematics teachers to deny CCL, yet simultaneously sanctioned EOL for 303 days. It is submitted that it was a discriminatory and vindictive approach in selectively choosing the type of leave to be sanctioned, contrary to principles of fairness and equality in administrative decision-making.

15. The learned counsel for the petitioner submits that the respondents failed to consider that the petitioner had sought leave primarily to attend to her children during a crucial phase, when both her children were appearing in their Board Examinations, and her elder son was under severe psychological stress. The learned counsel emphasizes that, as the petitioner's husband is employed as a Marine Engineer and remains out of India for extended durations, there was no other family member available to look after the children, making her presence indispensable.

16. The learned counsel for the petitioner further argues that at the time of the application, the petitioner had no earned or half-pay leave left in her account, and therefore, denial of CCL had the effect of compelling her to proceed on EOL, thereby, resulting in financial hardship.

17. It is contended that the respondents acted arbitrarily in rejecting CCL on the ground of non-availability of substitute teachers, as it was the responsibility of the department to ensure arrangements for replacement in such exigencies, particularly for a core subject like Mathematics.

18. The learned counsel for the petitioner contends that the



respondents, while refusing CCL on ‘administrative grounds’, ironically sanctioned EOL for the same period, thereby, displaying inconsistency and arbitrariness in their decision-making process. It is urged that no cogent reasons have been assigned by the respondents to justify the rejection of CCL applications, rendering the impugned action unsustainable in law.

19. The learned counsel for the petitioner lastly submits that the learned Tribunal failed to appreciate these aspects, and mechanically upheld the respondents’ decision, overlooking the humanitarian and purposive interpretation that ought to be accorded to Rule 43-C.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

20. The learned counsel for the respondents submits that CCL cannot be claimed as a matter of right. It is urged that the grant of such leave is subject to the discretion of the competent authority and contingent upon the exigencies of service. The learned counsel contends that where the absence of the petitioner would adversely affect the smooth functioning of the school, or where no alternative arrangement could be made for the discharge of her teaching duties, the competent authority is justified in declining CCL.

21. The learned counsel for the respondents further contends that the Government of India, on the basis of several references received after the introduction of CCL, had issued a clarification *vide* Office Memorandum No. 13018/2/2008-Estt.(L) dated 18.11.2008 of the



Department of Personnel and Training (hereinafter referred to as 'O.M. dated 18.11.2008'). The said memorandum, it is submitted, makes it explicit that while the intention behind introducing CCL was to enable women employees to take care of their children at the time of need, such leave cannot be permitted in a manner that disrupts the functioning of the office or institution concerned.

22. She urges that the petitioner in the present case had sought CCL for an extraordinarily long duration exceeding 730 days, which, by its very nature, would have seriously impaired the academic functioning of the school. It is further contended that, as per the wording of Rule 43-C of the Rules and the O.M. dated 18.11.2008, the competent authority 'may grant' CCL, thereby, conferring a discretionary power rather than a mandatory obligation upon the authority.

23. She further submits that the allegations of arbitrariness, *mala fides* and discriminatory conduct levelled by the petitioner are wholly misconceived and without foundation. It is explained that the petitioner's applications for CCL were duly considered at every stage, however, keeping in view the interest of students and the need to ensure continuity of teaching in Mathematics, the petitioner was, in the *interim*, granted EOL to mitigate her personal difficulties. It is thus contended that there was no wrongful denial of CCL, and the respondents acted *bona fide* and in accordance with the governing rules and administrative exigencies.

ANALYSIS AND FINDING

24. We have considered the submissions advanced by the learned



counsel for the parties and perused the material on record.

25. The issue that arises for consideration is whether the petitioner, a TGT(Mathematics) teacher, is entitled, as a matter of right, to the grant of CCL under Rule 43-C of the Rules, despite the administrative exigencies and requirement of maintaining smooth functioning of the school, and whether the respondents acted arbitrarily or discriminatorily in denying CCL while granting EOL for the same period.

26. At the outset it is essential to put light the relevant rules and the guidelines issued by the Government of India from time to time.

27. The Government of India through its Department of Personnel and Training *vide* OM No. 13018/2/2008-Estt. (L) dated 11.09.2008 intimated that CCL can be granted for a maximum period of 730 days during the entire service period to a woman government employee for taking care of up to two children, relevant portion of which reads as follows:

“Subject:- Recommendations of the Sixth Central Pay Commission relating to enhancement of the quantum of Maternity Leave and introduction of Child Care Leave in respect of Central Government employees.

Consequent upon the decisions taken by the Government on the recommendations of the Sixth Central Pay Commission relating to Maternity Leave and Child Care Leave, the President is pleased to decide that the existing provisions of the Central Civil Services (Leave) Rules, 1972 will be treated as modified as follows in respect of civilian employees of the Central Government:-



(c) Women employees having minor children 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 their entire service for taking care of upto two children whether for rearing or to look after any of their needs like examination, sickness etc. Child Care Leave shall not be admissible if the child is eighteen years of age or older. During the period of such leave, the women employees shall be paid leave salary equal to the pay drawn immediately before proceeding on leave. It may be availed of in more than one spell. Child Care Leave shall not be debited against the leave account. Child Care Leave may also be allowed for the third year as leave not due (without production of medical certificate). It may be combined with leave of the kind due and admissible.”

28. Thereafter, the Government of India Department of Personnel and Training, vide Notification No. F. No. 11012/1/2009-Estt. (L) dated 01.12.2009 introduced the Rule 43-C, giving effect from 01.09.2008, which reads as under:

“43-C. Childcare 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 childcare 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 up to two children whether for rearing or to look after any of their needs like examination, sickness, etc.

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

(3) Childcare leave may be combined with leave of any other kind.



(4) 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 not exceeding 60 days and leave not due) up to a maximum of one year, if applied for, be granted in continuation with childcare leave granted under sub-rule (1).

(5) Childcare leave may be availed of in more than one spell.

(6) Childcare leave shall not be debited against the leave account.”

(Emphasis supplied)

29. The Apex Court in ***Kakali Ghosh v. Andaman & Nicobar Admn. & Ors.***, (2014) 15 SCC 300, while interpreting the above Rule, has held as under:

“12. On perusal of circulars and Rule 43-C, it is apparent that a woman government employee having minor children below 18 years can avail CCL for a maximum period of 730 days i.e. during the entire service period for taking care of up to two children. The care of children is not for rearing the smaller child but also to look after any of their needs like examination, sickness, etc. Sub-rule (3) of Rule 43-C allows a woman government employee to combine CCL with leave of any other kind. Under sub-rule (4) of Rule 43-C leave of the kind due and admissible to a woman government employee including commuted leave not exceeding 60 days; leave not due up to a maximum of one year, can be applied for and granted in continuation with CCL granted under sub-rule **(1). From a plain reading of sub-rules (3) and (4) of Rule 43-C it is clear that CCL even beyond 730 days can be granted by combining other leave if due....”**

(Emphasis supplied)

30. The Rule 43-C of the Rules explicitly provide that a woman Government servant having minor children may be granted CCL for a



maximum period of 730 days during her entire service, for purposes such as the child's care, education, illness, or other pressing necessities.

31. While it is correct that CCL is not an entitlement as of right, the discretion to deny cannot be exercised arbitrarily or mechanically. It must be guided by the object and spirit of the rule, which is to support the welfare of the child and the legitimate needs of the mother.

32. The introduction of CCL into the service jurisprudence was intended as a welfare measure to reconcile the competing demands of professional duties and parental responsibilities. Recognizing that working mothers often face practical difficulties in attending to their children's needs due to official constraints, CCL was designed to afford them flexibility to personally care for their children whenever circumstances so require.

33. This Court in ***Amandeep Kaur v. Union of India & Ors.***, 2015 SCC OnLine Del 13044, has dealt with this issue in considerable detail. The relevant portion of the judgment is reproduced hereinbelow for ready reference:

"13. Although the respondents have refused CCL on the ground of exigencies of services, they have failed to bring on record any emergent situation showing presence of petitioner on duty imminent (Indeed, they have even failed to show an acute shortage of female staff) to justify refusal of CCL when it was sought for a valid reason. A parent forgets herself and subsumes her interest to the needs and requirements of the child—she risks everything for the welfare of the child.

14. We must remark that CCLs are special types of leaves which are prescribed for the



benefit of the child. They serve a larger societal goal and public interest in furthering every individual's right to a wholesome family life, securing the interest and health of infants - all of which are answered by Article 21 of the Constitution of India. Public employers should not ordinarily be denying the CCL to a mother unless it is for compelling and overriding public interest considerations. It could not have been in a case where the child was suffering. The discretion for granting CCL should be exercised liberally by the employers, keeping its objective and underlying purposes in mind."

(Emphasis supplied)

34. It is not in dispute that the petitioner had sought CCL to take care of her two children, aged about 15 and 17 years, who were studying in Classes X and XII respectively, and whose father, being a Marine Engineer, remained away from India for extended periods due to the nature of his duties at the time when the petitioner first applied for CCL on 14.07.2015.

35. The record further reflects that the petitioner's applications for CCL were repeatedly denied or curtailed, largely on the ground that no substitute TGT (Mathematics) was available. However, during the same period, the respondents sanctioned EOL for 303 days. The contradiction between the refusal of CCL on grounds of 'administrative inconvenience' and simultaneous approval of EOL undermines the respondents' justification.

36. It is worth noting that, if EOL could be managed for the same period, the plea that CCL would disrupt the functioning of the school loses its force. The denial of CCL, despite sanctioning EOL, therefore



appears arbitrary and discriminatory, and not in consonance with the object and spirit of Rule 43-C of the Rules.

37. This Court is mindful of the reliance placed by the respondents on various Office Memoranda and circulars, and of the settled position that CCL cannot be claimed as a matter of right. However, in the present case, the action of the respondents in rejecting the petitioner's applications is found to be arbitrary and unsustainable.

38. The learned Tribunal also failed to notice that the respondents had, in fact, sanctioned EOL for the same period for which the applicant had sought CCL. This contradiction ought to have been viewed as an indicative fact that administrative exigency was not so pressing so as to preclude the grant of CCL. The reasoning adopted by the learned Tribunal, therefore, cannot be sustained.

CONCLUSION

39. In view of the above, the petition is allowed and the Impugned Order passed by the learned Tribunal is hereby set aside.

40. The respondents are directed to take necessary steps to convert all the periods of EOL availed by the petitioner from 02.07.2017 to 30.04.2018 into CCL, in accordance with the applicable rules and regulations.

41. The writ petition is disposed of in the above terms.

MADHU JAIN, J

NAVIN CHAWLA, J

NOVEMBER 12, 2025/RM/VS