

FTS No. R-113339/2015-Estt.I  
Government of India  
Ministry of Health and Family Welfare  
Department of Health and FW

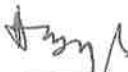
Nirman Bhawan, New Delhi  
Dated: November 2015

OFFICE MEMORANDUM

Subject: Review of Rule 43 regarding grant of Child Care Leave in the CCS (Leave) Rules, 1972 – Reg.

The undersigned is directed to refer to Department of Personnel and Training's OM No.13018/6/2013-Estt(L) dated 11<sup>th</sup> September 2015 on the subject mentioned above and to say that as per the technical comments provided by the Maternal Health Division of this Department, "Surrogate Mother bears the foetus for nine months during pregnancy and irrespective of whether she is a Government Servant or not, it is proposed that she should receive maternity leave of 180 days (6 months) for post-partum care, before she resumes work". The Child Health (CH) division of this Department also concurred with this view and have stated that this is important to promote exclusive breast feeding of children for six months.

Further, a copy of DoPT's OM is also being forwarded to Indian Council of Medical Research (ICMR) for their comments on the matter.

  
(A.K. Singh)

Under Secretary to the Government of India  
(Tel: 23061323)

To

*S6 (A-2)*  
*[Signature]*  
*18/11/15*  
Department of Personnel and Training  
(Attn: Shri Ashok Kumar Jain, Dy. Secy.)  
North Block, New Delhi

Copy to:

ICMR alongwith a copy of DoPT's OM – for providing their comments on the matter.

No. 13018/6/2013-Estt (Leave)  
Government of India  
Ministry of Personnel, P.G. and Pensions  
Department of Personnel and Training

\*\*\*\*

JNU Old Campus, New Delhi,  
Dated the 05<sup>th</sup> October, 2015

OFFICE MEMORANDUM

Subject: Review of Rule 43 regarding grant of Child Care Leave in the CCS  
(Leave) Rules, 1972

The undersigned is directed to refer to this Department's D.O. letter of even number dated 27.08.2015 and reminder dated 11.09.2015 (copies enclosed) on the subject mentioned above requesting that the proposal be examined and the comments forwarded to this Department.

2. The reply is still awaited. It is requested that the matter may be expedited and the views may be sent to this Department urgently, as action is to be taken on the orders of Hon'ble High Court of Delhi in the case of W.P. No. 844/2014 filed by Ms. Rama Pandey Vs. Union of India & Others and any further delay is liable to be construed as contempt of court.

  
(Mukul Ratra)  
Director (L&A)  
Tele: 011-26164314

To

(14)

1. Ministry of Health & Family Welfare, Department of Health Research, Shri Krishna Ballabh Agarwal, JS (AC), Nirman Bhawan, New Delhi.
2. Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disability, Shri Awanish Kumar Awasthi, JS (DEPWD), Shastri Bhawn, New Delhi

JS (ARR)

V. Vidyavathi  
Joint Secretary  
Tele: 23094276  
Fax: 23092869



भारत सरकार  
कार्मिक और प्रशिक्षण विभाग  
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय  
नोर्थ ब्लॉक, नई दिल्ली - 110001  
GOVERNMENT OF INDIA  
DEPARTMENT OF PERSONNEL & TRAINING  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSIONS  
NORTH BLOCK, NEW DELHI - 110001

D.O. No. 13018/6/2013-Estt. (L)

Dated the 27 August, 2015

Dear Sir,

The proposal pertains to allowing grant of Maternity Leave & Child Care Leave to surrogate/commissioning mothers.

2. This Department has been receiving several requests from female Government servants for grant of maternity/child care leave, where they beget children through surrogacy.

3. If it is decided to allow leave to a female employee, who gets a child through Assisted Reproductive Technologies, through another woman who acts as the surrogate, the quantum of such leave granted to either/both the women, as well as any other terms & conditions attached to the grant of such leave may need to be kept in mind. It is possible that the time required for a surrogate mother for recovery may differ from the time required by the commissioning mother for the care and upbringing of the child.

4. The following three scenarios could be envisaged:-

(i) Both surrogate mother and commissioning mother are Government Servants:- It is felt that only the commissioning mother will be eligible for Maternity Leave, as the surrogate mother will make over the child immediately after its birth to the commissioning mother who will be responsible for its care and up-bringing. However, the surrogate mother may require some leave for recovery, post child birth.

(ii) Commissioning mother is not a Government Servant but surrogate mother is a Government Servant:- Surrogate mother would not be eligible for Maternity Leave as per the extant definition. However, she may become entitled to leave post child birth..

contd....2/-...

(iii) Commissioning mother is a Government Servant but surrogate mother is not a Government Servant:- In this situation the commissioning mother may be entitled to Maternity Leave starting from child birth.

5. The Ministry of Health & Family Welfare is requested to examine the proposals and forward their comments especially on the quantum of leave that should be allowed in each case.

With regards,

Yours sincerely,

*o/c*

*V. Vidyavathi*

(V. Vidyavathi)

Shri Krishna Ballabh Agarwal ,  
JS(AC),  
Department of Health Research,  
Ministry of Health & Family Welfare,  
Nirman Bhawan, New Delhi-110001

REMINDER-I  
Immediate

No. 13018/6/2013-Estt(L)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training

\*\*\*\*

Old JNU Campus, New Delhi 110 067

Dated: 11.09.2015

OFFICE MEMORANDUM

Subject: Review of Rule 43 regarding grant of Child Care Leave in the CCS (Leave) Rules, 1972 – Reg.

\*\*\*\*\*

The undersigned is directed to refer to this Departments' D.O. letter of even number dated 27.08.2015 (Copy enclosed) on the subject mentioned above requesting that the proposals be examined and the comments forwarded to this Department.

2. The reply is still awaited. It is requested that the matter may be expedited and the views/inputs may be sent to this Department urgently.

Encl: As above



(Ashok Kumar Jain)

Deputy Secretary to the Government of India

To

1. Ministry of Health & Family Welfare, Department of Health Research [Director(Admn.)], Nirman Bhawan, New Delhi.
2. Ministry of Finance, Department of Expenditure [DySecy(Admn.)], North Block, New Delhi
3. Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disabilities [Director(Admn.)], Shastri Bhawan, New Delhi