



2026:AHC-LKO:19639

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 2909 of 2026

Reena Maurya (Pno.- 192623966)

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Of
Home Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Prateek Shrivastava, Archana Verma, Dhananjay Patel
Counsel for Respondent(s)	: C.S.C.

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard Mr. Prateek Shrivastava & Ms. Archana Verma learned counsel for petitioner and learned State Counsel for opposite parties.

1A. Learned counsel for petitioner is granted liberty to amend prayer no.1 of petition during the course of day.

2. Petition has been filed seeking a direction to opposite parties to grant Second Maternity Leave with pay to petitioner for the period of 180 days preferably with effect from 26.03.2026.

3. 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**, whereby it has been held that provisions of Maternity Benefit Act 1961 would prevail over provisions of Financial Hand Book Volume II Part II to IV.

4. Learned State Counsel has been provided written instructions dated 17.03.2026, copy of which is taken on record and on that basis submits that petitioner's application cannot be processed in view of Regulations 153 and 154 of the Financial Hand Book Volume II Part II to IV which prohibit grant of Second Maternity benefit within a period of 180 days from such benefit granted for the first time.

5. The aforesaid aspect has already been adjudicated upon in a number of decisions of this Court in the cases indicated here-in-above. 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."

6. 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 specifically held that Second Maternity Leave within a period of two years from the grant of First Maternity Leave is admissible.

7. Since reasons for not processing petitioner's application has been clearly indicated in the written instructions itself, petition is being adjudicated upon at the admission stage itself without requiring any counter affidavit to be filed, particularly in view of settled law.

8. It is unfortunate that despite consistent judgments being enunciated upon by this Court with regard to aforesaid aspects, State officials are repeatedly rejecting applications for grant of Second Maternity Benefit within a period of 180 days placing reliance on the Financial Handbook.

9. In view of aforesaid facts and circumstances, the Chief Secretary, Government of Uttar Pradesh,

Civil Secretariat, Lucknow is directed to ensure issuance of appropriate directions to all the departments specifically indicating that Second Maternity benefit can be granted within two years of such benefit being granted for first time, irrespective of Financial Handbook so that no other application for grant of Maternity Benefit within a period of 180 days from grant of First Maternity Benefits is rejected only on the ground of Regulations 153 and 154 of the Financial Handbook. Compliance shall be ensured within a period of two weeks from the date a certified copy of this order is submitted to the opposite party no.1 through the Office of the Chief Standing Counsel.

10. In view of discussion made here-in-above, opposite party no.4 i.e. Deputy Commissioner of Police, Lucknow (East), Police Commissionerate, Lucknow is directed to issue appropriate orders for grant of Second Maternity Leave with pay to petitioner in terms of the Maternity Benefit Act of 1961 with effect from 26.03.2026. Appropriate directions shall be issued within a period of ten days from the date a certified copy of this order is served upon opposite party no.4.

11. Resultantly, petition succeeds and is **allowed** at the admission stage itself. Parties to bear their own costs.

(Manish Mathur,J.)

March 18, 2026

Subodh/-