



2026:AHC:24789

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 257 of 2026

Dr. Simran Rayat

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhilesh Kumar, Yogesh Kumar Patel
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Akhilesh Kumar, learned counsel for the petitioner and Sri B.K. Srivastava, learned Standing Counsel, who appears for State-respondents.

2. Sri B.K. Srivastava, learned Standing Counsel, submits that he is well equipped with the instructions and the instructions are self-sufficient for disposal of the writ petition and he does not propose to file any further affidavit and the petition be decided on the basis of the documents available on record, thus with the consent of the parties, writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that the petitioner is posted as Dental Surgeon at Community Health Centre, Harauda, District Saharanpur. Earlier the writ petitioner had taken maternity leave for the period from 22.08.2002 to 17.02.2023 which was accorded. However, the writ petitioner again took maternity leave, now the same has been rejected by virtue of the order dated 06.03.2025 passed by the Additional Director, Medical Health and Family Welfare, Saharanpur Division Saharanpur, respondent no. 3.

4. Questioning the same, the writ petitioner has been filed the present writ petition.

5. Learned counsel for the writ petitioner has submitted that the grounds which weighed with authorities in negating the maternity leave is the fact that the said maternity leave has been taken within a period of two years, thus, the same is not to be accorded as per Rule 153 of the Rules in question. Learned counsel for the writ petitioner submits that the said grounds were not available, particularly, when the said issue is no more *res integra* as the

said issue has been decided in ***Richa Shukla v. State of U.P. and others; 2020 (164) FLR 716.***

6. Learned Standing Counsel on the other hand submits that whatever might be since the rule does not permit but the rules have been considered in the decision in ***Richa Shukla (supra)***, thus, the matter needs to be revisited.

7. I have heard learned counsel for the parties and gone through the records carefully.

8. Facts are not in issue. It is not in issue that the writ petitioner happens to be a Government servant seeking maternity leave. The maternity leave is to be accorded under Rule 153(1) of the Financial Handbook has been considered. In ***Richa Shukla (supra)***, it has been averred as under:

"13. In the instant case, the maternity leave as applied by the petitioner has been rejected by placing reliance on Rule 153(1) of the Financial Handbook by contending that the same contains a restriction that the second maternity leave cannot be granted and would be admissible in case 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 ended on 30.12.2017 and thus the respondents have rejected the claim of the petitioner for grant of second maternity leave. However, once 1961 Act does not contain any such stipulation accordingly it is apparent that the respondents have patently erred in placing reliance on Rule 153(1) of the Financial Handbook in rejecting the application of the petitioner for grant of maternity leave more particularly when Section 27 of 1961 Act provides that it is 1961 Act which would be applicable notwithstanding anything inconsistent contained in any other law or contract of service.

14. Keeping in view the aforesaid discussion, the writ petition deserves to be allowed and is allowed. A writ of certiorari is issued quashing the orders dated 13.11.2019 and 27.11.2019, copies of which are Annexures 1 and 5 to the writ petition. A writ of mandamus is issued directing respondent no.4 to consider the case of the petitioner for grant of maternity leave, taking into consideration the observations made above, within a period of ten days from the date of receipt of a certified copy of this order."

9. Since according to the learned Standing Counsel, the matter needs to be revisited, accordingly, the writ petition is being decided in the following manner:

(a). The impugned order dated 06.03.2025 passed by the Additional Director, Medical Health and Family Welfare, Saharanpur Division Saharanpur, respondent no. 3 is set aside.

(b). The matter stands remitted back to pass fresh order strictly in accordance with law within a period of six weeks from the date of presentation of the certified copy of the order.

10. Accordingly, the writ petition stands **disposed of**.

11. Instructions filed today are taken on record as marked as appendix B.

February 4, 2026

Ashu

(Vikas Budhwar,J.)