

**No.2-16/2017-PAP [E-3070642]**  
**Government of India**  
**Ministry of Communications**  
**Department of Posts**  
**[Establishment Division / PAP Section]**

**Dak Bhawan, Sansad Marg**  
**New Delhi – 110 001**

**Dated: 23.04.2018**

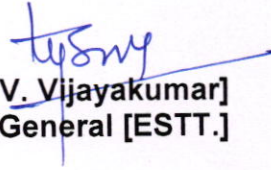
To

All Chief Post Masters General,  
All Post Masters General  
All General Managers (Postal Accounts & Finance),  
All Directors of Accounts (Postal),  
The Director, Rafi Ahmed Kidwai National Postal Academy, Ghaziabad,  
U.P.  
All Directors of PTCs

Sub.. : Writ Petition No. 844/2014 in High Court of Delhi filed by Ms. Rama Pandey, Teacher, Kendriya Vidyalaya V/s UOI & others - regarding.

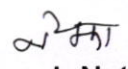
I am directed to forward herewith the copy of Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Office Memorandum No. 13018/6/2013-Estt.(L) dated 29<sup>th</sup> January, 2018 on the subject cited above for kind information and further necessary action at your end.

Encl.: As above.

  
**[K. V. Vijayakumar]**  
**Asstt. Director General [ESTT.]**

**Copy for kind information to :**

1. Sr. PPS to Secretary (Posts) / PPS to DG (Posts).
2. All member of Postal Services Board,
3. JS & FA (Posts), 4. DDG (PAF) / Secretary (PSB) / GM(F) BDD / CGM (PLI)
5. All other DDsG in Postal Directorate
6. Guard File, 7. Spare Copy
8. SO(C&A)
9. Departmental Website through : CEPT Mysore
10. All Postal Unions.

  
**(Nagesh Nath Jha)**  
**Asstt. Accounts Officer (PAP)**

E-34870/2018/PAR DOP  
16/4/18

F.E-3070642  
F.No.-2-16/2017-PAR

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

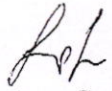
JNU Old Campus, New Delhi  
Dated 29 January, 2018

OFFICE MEMORANDUM

Subject: Writ Petition No.844/2014 in the High Court of Delhi filed by Ms. Rama Pandey, Teacher, Kendriya Vidyalaya V/s UoI & Others - reg.

The undersigned is directed to enclose herewith Hon'ble High Court of Delhi's Order dated 17<sup>th</sup> July, 2015 in the Writ Petition No.844/2014 in the High Court of Delhi filed by Ms. Rama Pandey, Teacher, Kendriya Vidyalaya V/s UoI & Others.

2. All Ministries/Departments are advised to give wide publicity of its contents to the concerned officers.
3. This issues with the approval of Secretary (P).

  
(Sandeep Saxena)  
Under Secretary to the Govt. of India  
011-26164316

As per standard mailing list.

Copy to:-

NIC, DOPT - for uploading on the website.

ADG (S) D/W 352  
16/4/18

Dy No 37/cant/2018-PAR  
16/4/18

Delhi High Court

Rama Pandey vs Union Of India & Ors. on 17 July, 2015

Author: Rajiv Shakdher

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 12.12.2014

% Judgment delivered on: 17.07.2015

+ WP(C) No. 844/2014

RAMA PANDEY

..... PETITIONER

Versus

UNION OF INDIA & ORS.

..... RESPONDENTS

Advocates who appeared in this case:

For the Petitioner: Mr Sunil Kumar and Mr Rahul Sharma, Advocates

For the Respondents: Mr Jasmeet Singh, CGSC with Ms Kritika Mehra, Adv. for R-1.

Mr S. Rajappa & Dr. Puran Chand, Advs. for R- 2 & 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J

FACTS

1 A synthesis of science and divinity (at least for those who believe in it), led to the culmination of the petitioner's desire for a child. Married, on 18.01.1998, to one Sh. Atul Pandey, the petitioner's, wish to have a child was fulfilled on 09.02.2013, albeit via the surrogacy route. Her bundle of joy comprised of twins, who were born on the aforementioned date, at a city hospital.

1.1 To effectuate the aforesaid purpose, the petitioner had entered into an arrangement with, one, Ms Aarti, wife of Mr Surya Narayan (hereafter referred to as the surrogate mother). The arrangement required the surrogate mother to bear a child by employing the In-Vitro Fertilization (IVF) methodology. The methodology used and agreed upon required the genetic father to fertilize, In-Vitro, the ovum supplied by a designated donor. The resultant embryo was then required to be transferred and implanted in the surrogate mother. This arrangement, along with other terms and conditions, which included rights and obligations of the commissioning parents, as also those of the surrogate mother, were reduced to a written agreement dated 08.08.2012 (in short the surrogacy agreement).

2. The fact that the surrogacy agreement reached fruition, is exemplified by the birth of twins, as indicated above, on 09.02.2013. This far, the petitioner was happy; her unhappiness, however, commenced with rejection of her application dated 06.06.2013, for grant of maternity and Child Care Leave (CCL). By this application, the petitioner sought 180 days maternity leave and 3 months CCL. This application was addressed to respondent no.3, with a copy to respondent no.2.

2.1 Respondent no.3 vide a covering letter of even date, i.e., 06.06.2013, forwarded the petitioner's application to respondent no.2, along with the requisite documents i.e. the surrogacy agreement and the birth certificate of the children. Respondent no.3, sought clarification with regard to the request made by the petitioner for sanctioning the maternity leave. A perusal of the covering letter would show that the leave sought for the purposes of child care was not being objected to. A doubt, was raised only qua maternity leave.

2.2 Evidently, vide communication dated 10.10.2013, petitioner's request was rejected by respondent no.3, based on, inputs received from respondent no.2 vide two communications dated 04.09.2013 and 19.09.2013. The first communication appears to have been sent by Kendriya Vidyalaya Sangathan (KVS), [Headquarters], while the second was, evidently, sent by KVS (D.R.). These communications, though, are not on record. 2.3 In sum, it was conveyed to the petitioner that there was no provision for grant of maternity leave in cases where the surrogacy route is adopted. The petitioner was, however, informed that the CCL could be sanctioned, in her favour, under Rule 43-A, which was applicable to "female government servants". It now transpires that reference ought to have been made to Rule 43 and not Rule 43-A; a fact which was confirmed by the counsel for respondent no.2 and 3.

2.4 In the background of the aforesaid stand, the petitioner was requested to submit an application for CCL, in case she was desirous of availing leave on that account.

3. The petitioner being aggrieved, approached this court by way of the instant petition, filed, under Article 226 of the Constitution. Notice on this limited aspect was issued in the writ petition on 05.02.2014. Though counsels for parties were asked to file written submissions; except for respondent no. 2 none of the other parties filed written submissions in the matter. Counsels for respondents have not filed any counter affidavit in the matter. The reason for that, perhaps would be, that the facts in the matter are not in dispute. The issue raised in the writ petition is, a pure question of law.

4. I may only note that on 10.02.2015, respondents placed before this court an office memorandum dated 09.02.2015, issued by the Ministry of Personnel, Public Grievances, Pensions, Department of Personnel and Training (DoPT), Govt. of India which, in turn, relied upon the office memorandum dated 09.01.2015, issued by the Ministry of Human Resources and Development.

4.1 The stand taken, based on the said office memorandums, was that, there was no provision for grant of maternity leave to female employees, who took recourse to the surrogacy route for procreating a child. Furthermore, it was indicated that for grant of "adoption leave", a valid adoption had to be in place.

4.2 Having said so, the DoPT recommended grant of maternity/ adoption leave to the petitioner keeping in mind the welfare of the child and, on consideration of the fact that the child was in her custody. The recommendation made was, that, not only should the petitioner be allowed 180 days of leave as was permissible in situations dealing with maternity leave / adoption leave but that she, should also be allowed, CCL, in case, an application was made for the said purpose. It was further

impact the commissioning mother, who takes recourse to the surrogacy route. Therefore, there is no justification for according maternity leave in such like cases.

(iv) If leave is granted to the commissioning mother, it could set a precedent for grant of leave in future to a single male or female parent or to same sex parents as well, who may take recourse to the surrogacy route.

(iv)(a). Therefore, the legislature would be the best forum for the enactment of necessary rules/regulations to deal with such like situations, including the situation which arose in the present case.

(v) In the K. Kalaiselvi's case, the Madras High Court was interpreting Rule 3-A of the Madras Port Trust (Leave) Regulations, 1987, pertaining to leave, made available, to female employees on adoption of a child. The court, in that case, equated the circumstances which arise in the case of the adoptive mother with those which emerge in the case of a female employee, who takes recourse to a surrogacy route. Accordingly, Rule 3-A of the aforementioned regulations was interpreted to include a female employee who ventured to have a child via a surrogate arrangement. Such parity, in principle, was erroneous for the following reasons : Firstly, in the absence of a valid adoption, the relevant Rule, in the instant case, does not get triggered. Secondly, such an interpretation would involve re-writing of the Rules by reading adoptive parent as the Commissioning Parent. REASONS

7. I have heard the learned counsels for the parties. According to me, what needs to be borne in mind, is this : there are two stages to pregnancy, the pre-natal and post-natal stage. Biologically pregnancy takes place upon union of an ovum with spermatozoon. This union results in development of an embryo or a foetus in the body of the female. A typical pregnancy has a duration of 266 days from conception to delivery. The pregnancy brings about physiological changes in the female body which, inter alia, includes, nausea (morning sickness), enlargement of the abdomen etc. 7.1 Pregnancy brings about restriction in the movement of the female carrying the child as it progresses through the term. In case complications arise, during the term, movement of the pregnant female may get restricted even prior to the pregnancy reaching full term. It is for these reasons, that maternity leave of 180 days is accorded to pregnant female employees. 7.2 Those amongst pregnant female employees, who are constitutionally strong and do not face medical complications, more often than not, avail of a substantial part of their maternity leave in the period commencing after delivery. Rules and regulations framed in this regard by most organizations, including those applicable to respondent no.3, do not provide for bifurcation of maternity leave, that is, division of leave between pre-natal and post-natal stages.

7.3 The reason, perhaps, why substantial part of the leave is availed of by the female employees (depending on their well-being), post delivery, is that, the challenging part, of bringing a new life into the world, begins thereafter, that is, in the post-natal period. There are other factors as well, which play a part in a pregnant women postponing a substantial part of her maternity leave till after delivery, such as, family circumstances (including the fact she is part of a nuclear family) or, the health of the child or, even the fact that she already has had successful deliveries; albeit without sufficient time lag between them.

indicated that the said two sets of leave would not be adjusted from the petitioner's leave account. The said recommendation was, however, made without prejudice to the policy, rules and/or instructions that the government may frame in that behalf in due course.

4.3 In the light of the aforesaid development, the counsel for both parties indicated that since the answer to the issue of law remains unarticulated (though the grievance of the petitioner may have been redressed), this court ought to deliberate upon the same and pronounce its judgment in the matter. 4.4 It is based on the stand taken by the counsels for the parties, I proceed to decide the issues raised, in the matter.

#### SUBMISSIONS OF COUNSELS

5. The counsel for the petitioner has equated the position of a commissioning mother to that of a biological mother who bears and carries the child till delivery. It is the submission of the learned counsel for the petitioner, that more often than not, as in this case, the commissioning parents have a huge emotional interest in the well-being of both the surrogate mother and the child, which the surrogate mother carries, albeit under a contractual arrangement. The well-being of the child and the surrogate mother can best be addressed by the commissioning parents, in particular, the commissioning mother. This object, according to the learned counsel, can only be effectuated, if maternity leave is granted to the commissioning mother.

5.1 The fact that a commissioning mother has been judicially recognized as one who is similarly circumstanced, as an adoptive mother, was sought to be established by placing reliance on the judgement of the Madras High Court in the case of : K. Kalaiselvi vs Chennai Port Trust, dated 04.03.2013, passed in WP(C) No. 8188/2012.

6. Counsels for the respondents, on the other hand, while being sympathetic to the cause of the petitioner, expressed their disagreement with the submission that maternity leave could be extended to the petitioner or female employees who are similarly circumstanced.

6.1 Mr Rajappa, who appeared for respondent no. 2 and 3, in particular, made submissions, which can be, broadly, paraphrased as follows:

(i) There is no provision under the extant rules for granting maternity leave to women who become mothers via the surrogacy route. Therefore, in law, no entitlement to maternity leave, in these circumstances, inhered in the petitioner.

(ii) The prime objective for grant of maternity leave is to protect the health and to provide safety to pregnant women in workplace, both during pregnancy and after delivery. Lactating mothers, who need to breast-feed their children, fall within a "specific risk group", and hence, are given maternity leave, based on factors which are relatable to safety and health parameters.

(iii) A woman, who gives birth to a child, undergoes mental and physical fatigue and stress and, is often, subjected to confinement both during and after pregnancy. These circumstances do not

Donaldson J described the role of the courts thus :

'The duty of the Courts is to ascertain and give effect to the will of Parliament as expressed in its enactments. In the performance of this duty the Judges do not act as computers into which are fed the statutes and the rules for the construction of statutes and from whom issue forth the mathematically correct answer. The interpretation of statutes is a craft as much as a science and the judges as craftsmen, select and apply the appropriate rules as the tools of their trade. They are not legislators, but finishers, refiners and polishers of legislation which comes to them in a state requiring varying degrees of further processing. When practitioners come to advise upon the legal meaning, they need to take account of all this. The Act is no longer as Parliament enacted it; it has been processed..'

(emphasis is mine) 9.5 The fact that this is a legitimate interpretative tool, available to courts, is quite evident upon perusal of the ratio of the following judgements.

9.6 A classic example of application of the updating of construction principle, is the judgement, in the case of Fitzpatrick vs Sterling Housing Association Ltd, 1999 (4) All E.R. 705, where the word 'family' was read to include two persons of same sex who were cohabitating and living together for a long period of time with a mutual degree of inter-dependence. 9.7 This is an interesting case where the court while applying the afore- stated principle interpreted the meaning of the word, 'family', by having regard to the prevalent social habits and attitudes. In this case, the plaintiff, who was the appellant before the House of Lords, had approached the court for protection from eviction on the ground that he had lived in a stable relationship with the original tenant of the same sex, who had since then died. The defendant / respondent (i.e. landlord) declined to recognize him as a tenant as he was neither the wife nor the husband of the original tenant. The courts below had accepted the plea of the respondent/defendant (i.e. the landlord). The House of Lords while allowing the appeal by a majority of 3:2 made the following apposite observations. The discussion thus veered around whether the appellant/plaintiff was the spouse of the original tenant.

"...It is not an answer to the problem to assume (as I accept may be correct) that if in 1920 people had been asked whether one person was a member of another same-sex person's family the answer would have been "No". That is not the right question. The first question is what were the characteristics of a family in the 1920 Act and the second whether two same-sex partners can satisfy those characteristics so as today to fall within the period "family". An alternative question is whether the word "family" in the 1920 Act has to be updated so as to be capable of including persons who today would be regarded as being of each other's family, whatever might have been said in 1920. See : R v Ireland [1998] AC 147, 158, per Lord Steyn; Bennion, Statutory Interpretation, 3rd ed (1997), p 686 and Halsbury's Laws of England, 4th ed reissue, vol 44 (1) (1995), p 904, para 1473...

..It seems to be suggested that the result which I have so far indicated would be cataclysmic. In relation to this Act it is plainly not so. The onus on one person

8. Thus, it is evident that except for the physiological changes and Dorland's Illustrated Medical Dictionary, 30th Edition, Saunders Publication difficulties, all other challenges of child rearing are common to all female employees, irrespective of the manner, she chooses, to bring a child into this world.

9. But the law, as it stands today, and therefore, the rules and regulations as framed by most organisations do not envisage attainment of parenthood via the surrogacy route.

9.1 It is not unknown, and there are several such examples that legislatures, usually, in most situations, act ex-post facto. Advancement in science and change in societal attitudes, often raise issues, which require courts to infuse fresh insight into existing law. This legal technique, if you like, is often alluded to as the "updating principle". Simply put, the court by using this principle, updates the construction of a statute bearing in mind, inter alia, the current norms, changes in social attitudes or, even advancement in science and technology. The principle of updating resembles another principle which the courts have referred to as the "dynamic processing of an enactment". The former is described in Bennion on Statutory Interpretation at page 890 in the following manner :-

"..An updating construction of an enactment may be defined as a construction which takes account of relevant changes which have occurred since the enactment was originally framed but does not alter the meaning of its wording in ways which do not fall within the principles originally envisaged by that wording. Updating construction resembles so-called dynamic interpretation, but insists that the updating is structured rather than at large. This structuring is directed to ascertaining the legal meaning of the enactment at the time with respect to which it falls to be applied. The structuring is framed by reference to specific factors developed by the courts which are related to changes which have occurred (1) in the mischief to which the enactment is directed, (2) in the surrounding law, (3) in social conditions, (4) in technology and medical science, or (5) in the meaning of words..."

9.2 The updating principle on account of development of medical science and technique was applied in the following case : R vs. Ireland, [1998] AC

147. 9.3 Similarly, change in social conditions have persuaded courts to apply the updating construction principle to inject contemporary meaning to the words and expressions used in the existing statute. See : Williams and Glyn's Bank Vs. Boland, [1981] AC 487 at page 511 placetum 'D' and R Vs. D, [1984] AC 778.

9.4 In respect of dynamic processing, the following observations in Bennion on Statutory Interpretation, 5th Edition, at page 502, being apposite, are extracted hereinafter :-

"..Few Acts remain for very long in pristine condition. They are quickly subjected to a host of processes. Learned commentators dissect them. Officials in administering them develop their meaning in practical terms. Courts pronounce on them.

"In construing an ongoing Act, the interpreter is to presume that Parliament intended the Act to be applied at any future time in such a way as to give effect to the true original intention. Accordingly the interpreter is to make allowances for any relevant changes that have occurred, since the Act's passing, in law, social conditions, technology, the meaning of words, and other matters. Just as the US Constitution is regarded as 'a living Constitution', so an ongoing British Act is regarded as 'a living Act'. That today's construction involves the supposition that Parliament was catering long ago for a state of affairs that did not then exist is no argument against that construction. Parliament, in the wording of an enactment, is expected to anticipate temporal developments. The drafter will try to foresee the future, and allow for it in the wording. xxx xxx xxx An enactment of former days is thus to be read today, in the light of dynamic processing received over the years, with such modification of the current meaning of its language as will now give effect to the original legislative intention. The reality and effect of dynamic processing provides the gradual adjustment. It is constituted by judicial interpretation, year in and year out. It also comprises processing by executive officials."

11. There cannot be any doubt that the Indian Evidence Act, 1872 is, by its very nature, an 'ongoing Act.'

12. It appears that it was only in 1874 that the first practical typewriter made its appearance and was marketed in that year by the E. Remington and Sons Company which later became the Remington typewriter - Obviously, in the Indian Evidence Act enacted in 1872 typewriting could not be specifically mentioned as a means of writing in Section 45 of the Evidence Act. Ever since then, technology has made great strides and so also the technology of manufacture of typewriters resulting in common use of typewriters as a prevalent mode of writing. This has given rise to development of the branch of science relating to examination of questioned typewriting...."

(emphasis is mine) 9.9 Similarly, the Supreme Court in two other cases recognised the progress of science and technology by bringing in line, the scope and meaning of the words and expressions used in existing statutes, with current norms and usage. The first case is the judgment delivered in Senior Electric Inspector vs Laxminarayan Chopra, (1962) 3 SCR 146, where it held, that the expression 'telegraph line' in the Indian Telegraph Act, 1885 would include a wireless telegraph having regard to the change in technology.

10. The second case is the judgment in M/s. Laxmi Video Theatres and Ors. Vs. State of Haryana and Ors., (1993) 3 SCC 715. In this case, the definition of the word 'cinematograph' as contained in Section 2(c) of the Cinematograph Act, 1952 was held to cover video cassette recorders and players for representation of motion pictures on television screen. 10.1 Also See State of Maharashtra Vs. Dr. Praful B. Desai, (2003) 4 SCC 601.

claiming that he or she was a member of the same-sex original tenant's family will involve that person establishing rather than merely asserting the necessary indicia of the relationship. A transient superficial relationship will not do even if it is intimate. Mere cohabitation by friends as a matter of convenience will not do. There is, in any event, a minimum residence qualification; the succession is limited to that of the original tenant. Far from being cataclysmic it is, as both the judge in the country court and the Court of Appeal appear to recognise, and as I consider, in accordance with contemporary notions of social justice. In other statutes, in other contexts, the same meaning may or not be the right one. If a narrower meaning is required, so be it. It seems also to be suggested that such a result in this statute undermines the traditional (whether religious or social) concepts of marriage and the family. It does nothing of the sort. It merely recognises that, for the purposes of this Act, two people of the same sex can be regarded as having established membership of a family, one of the most significant of human relationships which both gives benefits and imposes obligations.."

[Also see : Ghaidan v. Mendoza, 2002 (4) All E.R. 1162; Goodwin vs U.K., (2002) 2 FCR 577; Bellinger vs Bellinger, (2002) 1 All E.R. 311 (dissenting judgment of Thorpe LJ at page 335) and A. vs West Yorkshire Police, 2004 (3) All E.R. 145].

9.8 A constitution bench of our Supreme Court in the case of State (through CBI) Vs. S.J. Choudhary, (1996) 2 SCC 428 applied the updating construction principle when it was faced with an issue whether the opinion of a typewriter expert would be admissible in evidence in view of the language employed in Section 45 of the Indian Evidence Act, 1872 (in short the Indian Evidence Act). The objection taken by the accused in a criminal proceeding, which was sustained right up to the High Court was based upon observations in an earlier judgment of the Supreme Court in Hanumant Vs. State of Madhya Pradesh, 1952 SCR 1091 that the opinion of a typewriting expert was not admissible. The Constitution Bench of the Supreme Court ruled otherwise and while doing so, adverted to the updating construction principle by reading into the word, 'science' which appeared alongside the expression, 'handwriting' to include a person who was an expert in typewriters. The following observations of the Supreme Court being apposite are extracted hereinafter :-

"..10. Statutory Interpretation by Francis Bennion, Second edition, Section 288 with the heading "Presumption that updating construction to be given" states one of the rules thus: " xxx xxx xxx It is presumed that Parliament intends the court to apply to an ongoing Act a construction that continuously updates its wording to allow for changes since the Act was initially framed (an updating construction). While it remains law, it is to be treated as always speaking. This means that in its application on any date, the language of the Act, though necessarily embedded in its own time, is nevertheless to be construed in accordance with the need to treat it as current law.

xxx xxx xxx In the comments that follow it is pointed out that an ongoing Act is taken to be always speaking. It is also, further, stated thus:

from this, could one possibly conclude that her emotional involvement was any less if, not more, than the surrogate mother?

12.1 Therefore, while the submission advanced by Mr Rajappa that maternity leave is given to a female employee who is pregnant, to deal with biological changes, which come about with pregnancy, and to ensure the health and safety, both of the mother and the child, while it is in her womb, is correct; it is, I am afraid, an uni-dimensional argument, offered to explain the meaning of the term "maternity", as found incorporated in the extant rules.

12.2 The rules as framed do not restrict the grant of leave to only those female employees, who are themselves pregnant as would be evident from the discussion and reasons set forth hereafter. For this purpose, in the first instance, I intend to examine the scope and effect of the Rules to the extent relevant for the purposes of issues raised in the writ petition. 12.3 The word 'maternity' has not been defined in the Central Civil Services (Leave) Rules, 1972 (in short the Leave Rules), which respondents say are applicable to the petitioner.

12.4 Rule 43, which makes provision for maternity, for the sake of convenience, is extracted hereinbelow:

"...43. Maternity Leave :

(1) A female Government servant (including an apprentice) with less than two surviving children may be granted maternity leave by an authority competent to grant leave for a period of (180 days) from the date of its commencement.

(2) During such period, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave. NOTE :- In the case of a person to whom Employees' State Insurance Act, 1948 (34 of 1948), applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

(3) Maternity leave not exceeding 45 days may also be granted to a female Government servant (irrespective of the number of surviving children) during the entire service of that female Government in case of miscarriage including abortion on production of medical certificate as laid down in Rule 19: ` Provided that the maternity leave granted and availed of before the commencement of the CCS(Leave) Amendment Rules, 1995, shall not be taken into account for the purpose of this sub-rule'.

(4) (a) Maternity leave may be combined with leave of any other kind. (b) 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 for a period not exceeding 60 days and leave not due) up to a maximum of one year may, if applied for, be granted in continuation of maternity