

EXTENSION OF CHILD CARE LEAVE TO TWO YEARS ALONG WITH MATERNITY LEAVE- A CONSTITUTIONAL RIGHT

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ABSTRACT

Maternity leave and Child Care leave policies play a vital role in providing support to working mothers during the transition to parenthood. However, the standard maternity leave duration falls short of adequately addressing the multifaceted needs of mothers and infants during the early years. This article examines the Socio-economic implications, potential benefits, and impacts of extending the childcare leave to two years. By exploring the existing research and international case studies, this paper aims to explore the benefits and challenges of such a policy shift. This paper also aims to contribute to the ongoing discourse on maternity leave reform gender equity and work-life balance by considering the views of mothers, employers, policymakers, and society at large. In order to encourage working parents, advance gender equality in the workforce, and advance the welfare of children, extending childcare leave for two years is a positive move. This idea creates the groundwork for a society that is more compassionate and just by giving parents the time and resources they need to raise their children during their formative years.

Keywords: Child Care Leave, Gender Equity, Work-life Balance, Socio-economic implications, Working Parents.

INTRODUCTION

The transition to motherhood represents a significant changing event for women which led to physical, emotional, and social changes. In an era which is characterized by rapid socio-economic transformations, the traditional notions between work and family life are redefined. Despite the regular progress in the laws regarding Maternity and Child Care Leave, many women still face challenges balancing work and family responsibilities, particularly during the critical early stages of motherhood. Maternity and Child Care Leave provides support to working mothers during this period. With an increasing number of parents involved in the workplace, the demand for policies that support their dual roles has gained prominence. Child

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Care Leave (CCL) is one such policy that serves as a crucial tool in addressing the needs of working parents and facilitating recovery from childbirth, promoting infant well-being, and enabling the establishment of crucial mother-infant bonds. The extension of Child Care Leave (CCL) to two years reflects a progressive step in evolving societal norms and recognizing the needs of the families in balancing work and caregiving responsibilities. This article aims to explore the rationale behind the extension of CCL, its societal implications, benefits, challenges, and potential impacts on familial dynamics and workplace culture.

RATIONALE FOR EXTENDING CHILD CARE LEAVE

The decision to extend Child Care Leave to two years is rooted in the broad understanding of the important roles that parents play in nurturing the well-being and prospects of their child. With the increase in the number of parents involved in the workforce and single-parent households, the need for an extension of Child Care Leave has become apparent. This extension helps empower parents with the necessary time and resources to provide care and support during the very crucial years of their children, thus helping create a deeper bond between parents and child and fostering holistic growth and development.

CASE STUDY

Landmark Judgment: The Case of Shalini Dharmani

The case that led to this pivotal ruling involved Shalini Dharmani, an Assistant Professor at Government College, Nalagarh. Dharmani sought childcare leave to care for her son, who suffers from Osteogenesis Imperfecta, a rare genetic disorder. However, her request was denied, with the State of Himachal Pradesh citing the non-adoption of Rule 43-C of the Central Civil Services (Leave) Rules, 1972. The said rule allows government employees to take childcare leave for up to two years for the rearing, examination, or sickness of a minor child. This denial prompted her to seek legal recourse. In this landmark judgment, Chief Justice of India D Y Chandrachud and Justice J B Pardiwala recognized the importance of childcare leave in facilitating women's continued workforce participation. The court underscored that state policies must align with constitutional mandates, stressing the need to support women, especially those with children requiring special care¹.

¹ 'Bhagwati Tiwari', 'Can Working Mothers in India Now Get Two Years of Paid Child Care Leave? Supreme Court's Order' (May2024) <<https://www.linkedin.com/pulse/can-working-mothers-india-now-get-two-years-paid-child-tiwari-bdmhc/>> accessed 08 May 2024

A REQUEST FOR STATE GOVERNMENTS TO TAKE ACTION

The State of Himachal Pradesh was ordered to evaluate its childcare leave policy in accordance with the Rights of Persons with Disabilities Act, 2016, and this decision has urgent ramifications for the state. In addition, a committee headed by the Himachal Pradesh Chief Secretary is scheduled to investigate the issue; the committee has until July 31, 2024, to submit its report. In order to bring state laws into compliance with the constitutional safeguards for working women, this endeavor is a crucial first step. The Supreme Court's order should act as a wake-up call for all state governments to make sure that working moms' changing requirements are taken into account in their policies. It promotes a thorough examination and realignment of employment regulations in order to facilitate women's complete involvement in the workforce while juggling their familial obligations.

IMPLICATIONS FOR THE PRIVATE SECTOR

Although the Supreme Court's decision primarily affects government workers, the commercial sector may also be affected by its larger ideas and ramifications. The court's interpretation of constitutional rights may have an impact on private employers, which could result in changes to corporate rules for paid time off for child care. Employers in the private sector, however, confront particular difficulties in establishing benefits for extended childcare leave due to factors like cost, legal compliance, and possible effects on business operations. Although the Maternity Benefit (Amendment) Act of 2017 is a comprehensive law, it does not specifically cover extended childcare leave beyond the statutory maternity leave term. Employers who are interested in implementing similar plans must traverse these legal frameworks.

Exploring CSR opportunities, utilizing tax benefits on employee welfare programs, and forming partnerships with child-care providers are some efficient ways to get around these obstacles (because opening in-house daycare centers can be expensive and resource-intensive). Employers may choose to create flexible work arrangements to mitigate the operational implications of longer childcare leave. Options like reduced workweeks, flexible scheduling, and remote work may fall under this category

IMPACT ON FAMILIES

A significantly positive impact with greater flexibility and support in managing the work and caregiving responsibilities has been led by this extension of Child Care Leave(CCL) to two years. With this longer period of leave, the parents would be able to spend more time with their

child during the crucial stage of their development which helps in creating a stronger bond between them without compromising their professional pursuits. It also helps mitigate the financial strain related to childcare expenses. Moreover, Extended CCL promotes gender equality through the equitable distribution of parental duties. By prioritizing the needs of the families, extended CCL contributes to creating more resilient and cohesive family units, laying the foundation for a healthier society.

IMPACT ON WORKPLACES

As discussed earlier, this extension helps in providing opportunities for family empowerment, but this also creates challenges for workplaces in terms of workforce management and productivity. Employee absence for a prolonged period may necessitate employees to make adjustments in staffing, logistics, and resource allocation and disrupt operational efficiency. However, forward-thinking organizations may mitigate these issues by reforming the policies to create a supportive and trustworthy environment through flexible scheduling and telecommuting options. By investing in family-friendly policies, an organization leads increases employee satisfaction, and loyalty enhances employee morale and maintains a work-life balance. These policies help create a competitive advantage in attracting and retaining top-level employees and thereby reaping a long-term dividend in terms of organizational success.

CHALLENGES AND OPPORTUNITIES

The two-year CCL extension offers opportunities and challenges to companies, legislators, and society at large. Extended leave periods may cause financial pressure on government agencies and employers, creating challenges for funding and resource allocation. Moreover, specific interventions and support systems may be required to address worries about worker productivity and career progression for workers taking prolonged vacations. On the other hand, the expansion of CCL offers chances for novel workplace regulations and procedures. Employers can meet the requirements of working parents while preserving productivity and efficiency by implementing flexible methods for scheduling, telecommuting, and job sharing. Additionally, by fostering children's growth and preparing them for adulthood, spending money on early childhood education and childcare services can have long-term positive effects on society.

PROVISION OF CHILD CARE LEAVE IN INDIA: UNDER CENTRAL CIVIL SERVICES (LEAVE) RULES, 1972

Section 43-C: Child Care Leave: Subject to the provisions of this rule, a female Government servant and a single male Government servant (an unmarried or widower or divorcee Government servant) may be granted child care leave by an authority competent to grant leave for a maximum period of seven hundred and thirty days during entire service for taking care of two eldest surviving children, whether for rearing or for looking after any of their needs, such as education, sickness and the like².

Section 43: Maternity Leave: 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 commencement³.

Section 43-A: Paternity leave: A male Government servant (including an apprentice) with less than two surviving children, may be granted Paternity Leave by an authority competent to grant leave for a period of 15 days, during the confinement of his wife for childbirth, i.e., up to 15 days before, or up to six months from the date of delivery of the child⁴.

“Child” Means: a child below the age of 18 years or a child up to the age of 22 years with a minimum disability of 40 percent as elaborated in the Ministry of Social Justice and Empowerment notification issued on June 1, 2001⁵.

Grant of child care leave to a female Government servant and a single male Government servant under sub-rule (1) shall be subject to the following conditions, namely:

Three Spells in a Calendar Year: It shall not be granted for more than three spells in a calendar year;

In the case of a single female Government servant, the grant of leave in three spells in a calendar year shall be extended to six spells in a calendar year.

No CCL During Probation Period: It shall not ordinarily be granted during the probation period except in case of certain extreme situations where the leave sanctioning authority is satisfied with the need for childcare leave to the probationer.

² 'Denial of Child Care Leave for Mothers of Disabled Children violates Constitutional Rights of the Women' (2024) <https://pwonlyias.com/current-affairs/child-care-leave-in-india/#provision-of-child-care-leave-in-india-under-central-civil-services-leave-rules-1972> accessed 08 May2024

³ *Ibid*

⁴ *Ibid*

⁵ *Ibid*

Minimum Period of CCL leave: Child care leave may not be granted for a period of less than five days at a time.

Total Period of Leave: A female Government servant and a single male Government servant shall be paid one hundred percent of the salary for the first three hundred and sixty-five days, and eighty percent of the salary for the next three hundred and sixty-five days.

CONCLUSION

A paradigm shift in society's attitudes about work, family, and well-being is symbolized by the extension of childcare leave to two years. Employers and legislators can build a more resilient and inclusive society by putting working parents' needs first and making investments in our children's future. Progressive policy improvements must be embraced despite the many obstacles that may arise from protracted CCL. These benefits include improved family ties and a more productive workforce. As we set out on this path to a more just and caring future, let's take advantage of the chance to strengthen families, give future hope, and create a world in which every child can prosper. India's constitutional responsibility to assist working women is emphasized by the Supreme Court's decision on prolonged childcare leave. The ruling primarily impacts government workers, but its larger implications can also impact private sector policy by promoting an inclusive and encouraging work environment for women. In light of the expanding demands of a diverse workforce, businesses from all sectors must collaborate to ensure that laws and practices reflect these changing needs and welcome the new dawn for women's rights as the country moves forward.