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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 05.02.2026
Judgment delivered on: 04.06.2026

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+ LPA 589/2025
SANGEETA NEGI

.....Appellant

Through: Mr. Sermon Rawat and Ms. Aastha
Vishwakarma, Advocates.

versus

BHARTI PUBLIC SCHOOL & ORS.Respondents

Through: Mr. B.C. Pandey, Mr. S.P. Kamrah,
Mr. Puneet Batra and Mr. Aryavansh
Kamrah, Advocates for R-1 & R-2.
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Vishruti Pandey, Mr.
Sachin Garg, Advocates for R-3 to R-
5.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****J U D G M E N T****DEVENDRA KUMAR UPADHYAYA, C.J.**

1. As to whether, the petitioner who is a teacher working with the respondent-School, which is a recognized but un-aided and privately managed, is entitled to the benefit of Child Care Leave (*hereinafter referred to as 'CCL'*) is the question which engages our attention in this *intra-court* appeal.
2. The appellant instituted *W.P.(C) 11903/2025*, with a prayer to issue a direction to the respondent-School to grant her CCL for the period between



01.05.2025 to 30.09.2025 on the ground that her son who was in Class XII was facing certain academic pressure. The writ petition has been dismissed by the learned Single Judge *vide* impugned order dated 08.08.2025 relying upon a judgment of the learned Single Judge of this Court in ***Beena Arora v. Directorate of Education, 2017 SCC OnLine Del 7600***. We may note at this juncture itself that the learned Single Judge in ***Beena Arora (supra)*** has placed reliance on ***M.I. Hussain v. Director of Education, 2014 SCC OnLine Del 1226***, a Division Bench of this Court.

3. Heard learned counsel for the parties and perused the records available before us on this *intra-court* appeal.

4. Terms and conditions of service of employees of recognised private schools are governed by the provisions contained in Chapter IV of the Delhi School Education Act, 1973 (*hereinafter referred to as 'DSE Act'*).

5. The term "Employee" has been defined in Section 2(h) of the DSE Act to mean a teacher and includes every other employee working in a recognised school. Section 2(h) is reproduced here under:

(h) "employee" means a teacher and includes every other employee working in a recognised school;"

6. Section 10 of DSE Act, which falls in its Chapter IV, is in respect of salaries of the employees, wherein, it has *inter alia* been provided that pay scale, allowances, medical facilities, pension, provident fund, gratuity and "other prescribed benefits" of the employees working in a recognised private school shall not be less than those employees of the corresponding status in schools run by the appropriate authority. Section 10 of the DSE Act reads as under:



“10. Salaries of employees.—(1) *The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority:*

Provided that where the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the appropriate authority, the appropriate authority shall direct, in writing, the managing committee of such school to bring the same up to the level of those of the employees of the corresponding status in schools run by the appropriate authority:

Provided further that the failure to comply with such direction shall be deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of section 4 shall apply accordingly.

(2) The managing committee of every aided school shall deposit, every month, its share towards pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits with the Administrator and the Administrator shall disburse, or cause to be disbursed, within the first week of every month, the salaries and allowances to the employees of the aided schools.”

7. The expression “Appropriate Authority” has been defined in Section 2(e) of the DSE Act, which, in the case of a school recognised by an authority means authority designated or sponsored by the Central Government. In case of a school recognised by Delhi Administration, the authority means the Administrator or any other officer authorised by him and in case of a school recognised by the Municipal Corporation of Delhi, it is that corporation and in case of any other school the “appropriate authority” means the Administrator or any other officer authorised by him in this behalf. Section 2(e) of the DSE Act is also extracted herein below:



“(e) **“appropriate authority”** means,—

(i) *in the case of a school recognised or to be recognised by an authority designated or sponsored by the Central Government, that authority;*

(ii) *in the case of a school recognised or to be recognised by the Delhi Administration, the Administrator or any other officer authorised by him in this behalf;*

(iii) *in the case of a school recognised or to be recognised by the Municipal Corporation of Delhi, that Corporation;*

(iv) *in the case of any other school, the Administrator or any other officer authorised by him in this behalf;”*

8. It is also to be noticed that the term “Prescribed” has been defined in Section 2(q) of the DSE Act to mean prescribed by the rules made under the DSE Act. Section 2(q) of the DSE Act is extracted herein below:

“(q) **“prescribed”** means prescribed by rules made under this Act;”

9. Apart from the aforesaid statutory provisions occurring in the DSE Act, we may also refer to Rule 11 of the Delhi School Education Rules, 1973 (*hereinafter referred to as ‘Rules, 1973’*), which is in respect of leave of absence. As per the said Rule, every employee of a recognised private school, whether aided or not, is entitled to such leave as are admissible to an employee of a corresponding status in government schools. Rule 11 of the Rules, 1973 reads as under:

“11. Leave of absence

Every employee of a recognised private school, whether aided or not, shall be entitled to such leave as are admissible to employees of a corresponding status in government schools.”

10. The submission on behalf of the appellant is that having regard to the provisions of Section 10 of the DSE Act read with Rule 11 of the Rules, 1973, the appellant is an employee working in a privately recognized school,



which school is unaided and therefore, in case the benefit of CCL is available to an employee of the same status in a government school, such benefit cannot be denied to the appellant.

11. As per Rule 43(C) of the Central Civil Services (Leave) Rules, 1972, a female government servant may be granted CCL by the authority competent to grant leave for a maximum period of 730 days during the 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 like. Rule 43(C) of the Central Civil Services (Leave) Rules, 1972, (*hereinafter referred to as 'Leave Rules, 1972'*) is extracted herein below:

(1) Subject to the provisions of this rule, a female Government servant and single male 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 like.

(DOPT Notification No. 11020/01/2017-Estt. (L), dated 11.12.2018)

(2) For the purposes of sub-rule (1), "child" means—

(a) a child below the age of eighteen years; or

(b) an offspring of any age with a minimum disability of forty per cent as specified in the Government of India in Ministry of Social Justice and Empowerment's Notification No. 16-18/97-N 1.1, dated the 1st June, 2001.

(DOPT Notification No. 13018/6/2013- Estt. (L), dated 06.06.2018)

(3) 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:- (DOPT Notification No. 11020/01/2017-Estt. (L), dated 11.12.2018)

(i) it shall not be granted for more than three spells in a calendar year;

[As a welfare measure, it has now been decided that, the leave sanctioning authorities in the Ministries or Departments under the Government of India are bestowed with the power to relax up to a maximum of three spells beyond the existing three spells of Child Care Leave in a calendar year, under Rule 43-C(3)(i) of the CCS(Leave) Rules 1972, to female Central Government employees and single male Central Government employees in case their child is admitted in a hospital as



inpatient. vide DoPT's OM No. A-24011/5/2024-ESTT-Leave dated 29.07.2024.]

(ii) in 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.

(iii) it shall not ordinarily be granted during the probation period except in case of certain extreme situations where the leave sanctioning authority is satisfied about the need of child care leave to the probationer, provided that the period for which such leave is sanctioned is minimal.

(iv) child care leave may not be granted for a period less than five days at a time.

(4) During the period of child care leave, a female Government servant and a single male Government servant shall be paid one hundred per cent of the salary for the first three hundred and sixty-five days, and at eighty per cent of the salary for the next three hundred and sixty-five days.

EXPLANATION.— Single Male Government servant' means — an

(5) Child care leave may be combined with leave of any other kind.

(6) 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 not exceeding sixty days and Leave Not Due) up to a maximum of one year, if applied for, be granted in continuation with child care leave granted under sub-rule (1).

(7) Child care leave shall not be debited against the leave account.

(8) In case of surrogacy, the commissioning mother with less than two surviving children may be granted child care leave.

Note 1:- The expression 'commissioning mother' shall mean the intending mother of the child born through surrogacy. (DOPT Notification No. A-24011/21/2023-ESTT-Leave, dated 18.06.2024)"

12. Thus, so far as, teachers working in government schools in Delhi are concerned, in terms of the provisions of Rule 43(C) of the Leave Rules, 1972, CCL is a benefit which has been made available to them.

13. Rule 111 of the Rules, 1973 as quoted above, deals with the provisions relating to leave of absence, according to which an employee working in a recognized private school which may be unaided is entitled to



such leave as are admissible to the employees of government schools and therefore, as per the said provision contained in Rule 111 of the Rules, 1973 in our opinion, since the benefit of CCL is available to a teacher of a government school in Delhi, the appellant can also not be denied to such benefit.

14. We may refer to the provisions of Section 10 of the DSE Act, which mandates that scales of pay and allowances, medical facilities, pension, provident fund and gratuity of the employees of the recognized private school shall not be less than those working in the corresponding status in a school run by the government. Apart from the scales of pay and allowances, medical facilities, pension, provident fund and gratuity applicable to government school teachers, “other prescribed benefits” have also been made available to the teachers working in a recognized private school.

15. We have already referred to the definition of the phrase “Prescribed” which, in terms of Section 2(q) of the DSE Act, means prescribed by the Rules, 1973 made under the DSE Act. Rules, 1973 have been made under the rule-making power available to the Administrator under Section 28 of the DSE Act, and therefore, the Delhi School Education Rules, 1973 are the Rules made under the DSE Act. Rule 111 of the Rules, 1973, thus forms part of the Rules made under the DSE Act, and accordingly, the word “Benefits” occurring in Section 10(1) of the Rules, 1973, which is preceded by the word “Prescribed”, in our opinion, would include the benefit of leave as well.

16. As far as the judgment relied upon by the learned Single Judge on *Beena Arora (supra)*, which is a Single Judge judgment of this Court, we have already noticed that *Beena Arora (supra)* is based on a certain



interpretation accorded to Section 10(1) of the DSE Act by a Division Bench of this Court in *M.I. Hussain (supra)*.

17. It is to be noticed that *M.I. Hussain (supra)* was a case which concerned itself with the claim of the employee (Librarian) working in Delhi Public School, Mathura Road which is a recognized unaided private school. The claim put forth by the said librarian was that like teachers, he should be made to retire on attaining the age of superannuation of 60 years and not at 58 years. The librarian in the said case also claimed that the post being held by him was a teaching post based on the Office Order dated 21.01.2011. Thus, there was no claim put forth by the employee concerned in the said case in relation to the CCL.

18. The Division Bench in *M.I. Hussain (supra)*, interpreting the said Office Order dated 21.01.2011 issued by the Government of NCTD, held that the said notification declared the post of librarian as a teaching post only in respect of those librarians who were working in government schools and not in private schools. It was further held by the Division Bench by interpreting Section 10(1) of the DSE Act that since the extension of the age of retirement from 58 to 60 years is not covered by the said provision, the librarian would not be entitled to seek his superannuation like teachers on his attaining the age of 60 years, rather he would retire on completion of the age of 58 years.

19. Thus, it is in the aforesaid facts that we need to decipher the ratio of *M.I. Hussain (supra)*. Applying the principle of “*ejusdem generis*” for interpreting the provisions of Section 10 of the DSE Act, the Division Bench in *M.I. Hussain (supra)* has held that the said Rule is a Rule of interpretation which guides the Court in determining whether two or more words which are



susceptible of analogous meaning are coupled together, they are to be understood to be used in their cognate sense. It is in this context that it has been held in *M.I. Hussain (supra)* that while applying the *ejusdem generis* principle, a broad-based genus has to be discovered and thereafter, the intention of the legislature has to be gathered.

20. Discussing the principle of *ejusdem generis*, the Division Bench in *M.I. Hussain (supra)* held that a broad-based genus in Section 10 of the DSE Act is clearly discernible, which is “benefit having the character of money”. It has further been held that pay scale, allowances, medical facilities, pension, provident fund, gratuity have the common “character of money” and these words are followed by the general expression “other prescribed benefits” and therefore, the wide expression, i.e. “other prescribed benefits” must take the meaning from the genus of the previous words that is to say such benefits which are capable of being converted into money, such as bonus, leave encashment etc. will be covered by the expression “other prescribed benefits” occurring in Section 10(1) and no other.

21. The said interpretation resorted to by the Division Bench in *M.I. Hussain (supra)* was in relation to a claim of extension of age of superannuation from 58 years to 60 years, however, what appears to have lost sight of by the Division Bench in *M.I. Hussain (supra)* is the meaning of the expression “Prescribed” which precedes the word “Benefits” in Section 10(1).

22. As already discussed above, the expression, “Prescribed” has been defined in Section 2(q) of the DSE Act to mean prescribed by Rules made under DSE Act and since Rule 111 of the Rules, 1973 is the part of Delhi



School Education Rules, 1973 which has been made under Section 28 of the DSE Act, in our opinion, the “Prescribed Benefits” has to be discerned as per the prescription under the Rules, 1973.

23. It is not in doubt that leave of absence is a benefit available to an employee and since such benefit of leave of absence has been made available to the employees of unaided recognized private schools at par with the employees of government schools, in our opinion Rule 111 will have to be read with full force for considering the issue as to whether, the appellant is entitled to CCL or not.

24. Leave, as is understood in service jurisprudence, is of different kinds, some of which have the character of money but some of which do not. Various kinds of leave which have the character of money are Earned Leave, Half Pay Leave and Commuted Leave, etc. The other kinds of leave which do not have the character of money are Maternity Leave, CCL and Study Leave, Special Disability Leave, Hospital Leave, Seaman’s Sickness Leave etc.

25. The leave, which is having a character of money, if not availed, is encashed by the employee, whereas the leave which do not have the character of money, if not availed, cannot be encashed in terms of money. CCL is one such leave, which, if not availed, cannot be encashed by the employee concerned.

26. Having discussed different kinds of leave having the character of money and also those not having the character of money, we lean on the provisions contained in Rule 111 of the Rules, 1973, which is in respect of leave of absence and does not distinguish between leave having the character of money and leave which does not have the character of money. Since



irrespective of the fact as to whether a particular kind of leave has or does not have character of money, Rule 111 grants the benefit of leave of absence to an employee of a recognized private school, whether aided or unaided, at par with such employees working in a corresponding status in a government school, in our opinion, the benefit of CCL will be available to those employees working in unaided recognized and privately managed schools in Delhi as well, as is available to the employees of the government schools.

27. A Division Bench of this Court in ***Amandeep Kaur v. Union of India, 2015 SCC OnLine Del 13044*** has observed that CCL is a special type of leave which is prescribed for the benefit of a child and further that such leave serves a larger societal goal in public interest in furthering every individual right to hold some family life, securing the interest and health of infants which are all facets of Article 21 of the Constitution of India. The Division Bench in this case has also held that public employers should not ordinarily deny CCL to a mother unless it is for compelling and overriding public interest considerations, and also that discretion for granting CCL should be exercised liberally by the employers having regard to its objective and underlying purpose. Paragraph 14 of the aforesaid judgment is extracted herein below:

“14. We must remark that CCLs are special types of leaves which are prescribed for the benefit of the child. They serve a larger societal goal and public interest in furthering every individual's right to a wholesome family life, securing the interest and health of infants - all of which are answered by Article 21 of the Constitution of India. Public employers should not ordinarily be denying the CCL to a mother unless it is for compelling and overriding public interest considerations. It could not have been in a case where the child was suffering. The discretion for granting CCL should be exercised liberally by the employers, keeping its objective and underlying purposes in mind.”



28. In view of the aforesaid discussion, in our opinion, the appeal deserves to be allowed.

29. Resultantly, the appeal is allowed and the impugned order dated 08.08.2025 passed by the learned Single Judge in *W.P.(C) 11903/2025* is set aside.

30. The respondent School is directed to consider the prayer for grant of CCL made by the appellant afresh and decide the same with expedition.

31. Pending application(s), if any, stand disposed of.

32. There shall be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

JUNE 04, 2026/MJ