Supreme Court's View on Paid Maternity Leave

Mains: *GS-II – Polity & Governance*

Why in News?

Recently, the Supreme Court has struck down a law which said a woman would be eligible for maternity leave if she legally adopts a child below the age of three months.

What was the recent SC's ruling on paid maternity leave?

- **SC ruling** – The SC held that *adoptive mothers should be entitled to maternity leave of 12 weeks,* irrespective of the age of the adopted child.
- **Equal Rights for Adoptive Mothers** – The Court emphasized that maternity benefits cannot be confined by the child's age & added that an adoptive mothers would have the *same rights and obligations as biological mothers*.
- **Striking Down Section 60(4)** – The ruling struck down Section 60(4) of the *Social Security Code, 2020* (earlier Section 5(4) of the Maternity Benefit Act, 1961).
- This section had *limited maternity leave* only to mothers who adopted children under the age of three months, the Court declared this restriction unconstitutional.
- **Call for Paternity Leave** – The SC also directed the Centre to introduce paternity leave as a social security benefit, recognizing the role of fathers in childcare.

What are the Constitutional Significance?

- **Article 14 (Equality)** – The Court ruled that limiting maternity leave to adoptees under three months was an artificial distinction without rational basis.
- **Article 21 (Right to Life & Dignity)** – Denying leave deprived both mother and child of dignity, care, and holistic development.
- **Reproductive autonomy** – Adoption is recognized as a legitimate exercise of reproductive choice.

What is the law on maternity leave in India?

- **Colonial Beginnings –**
- **Bombay Maternity Benefit Act, 1929** – It covered women factory workers, marking the start of statutory maternity benefits in India..
- It was followed by similar laws in other parts of the country in the run-up to Independence.
- **National Legislation** – In 1961, Parliament passed the Maternity Benefit Act to provide paid maternity leave of 12 weeks to working women across the country.
- This was the first nationwide framework for maternity benefits.

- **Major Amendment in 2017** – The Maternity Benefit (Amendment) Act, 2017 expanded rights, such as
    - Extended the period of paid maternity leave for biological mothers to 26 weeks
    - Inserted a provision for extending maternity leave for the first time to adoptive mothers or surrogate mothers.
- **Section 5(4) of the Act** – Surrogate or adoptive mothers legally adopting a child below 3 months would be entitled to maternity leave for a period of 12 weeks from the date the child is handed over to the mother.

Why was this law considered inadequate?

- **The Petitioner** – This provision was challenged in 2021 by Hamsaanandini Nanduri, a lawyer who adopted siblings in 2017.
- Her Bengaluru law firm gave her only six weeks of paid maternity leave, which highlighted the lack of clear policy for adoptive mothers.
- **Challenge to the Law** – In 2021, she challenged the provision granting 12 weeks of maternity leave only to adoptive/surrogate mothers of children below three months.
- She argued this was "mere lip service" compared to the 26 weeks granted to biological mothers.
- The provision violated fundamental rights under the Constitution by treating adoptive mothers unequally.
- **Key Arguments in Court** – The 3-month limit was unjust to both children and parents, depriving older adoptees from receiving the maternal care they need for their development and integration into their adoptive families.
- Also pointed out that adoption procedures take much longer than three months in India.
- **RTI Findings** – Through an RTI filed with CARA (Central Adoption Resource Authority) that *less than 5% of children* adopted at that time were under the age of three months.
- This showed that the law excluded the majority of adoptive mothers from maternity benefits.

What did the Court say about motherhood?

- **Motherhood Beyond Biology** – The Court made it clear that motherhood cannot be seen through the "narrow lens of biology" alone.
- It referred to adoption as part of the "right to reproductive autonomy".
- **Importance of Leave** – The period of leave plays a crucial role in fostering [an] emotional bond between the mother and the child, is essential for the child's integration into the family.
- **Psychological Well-being** – The children raised in orphanages are often show higher stress hormone levels than those in children brought up in a familial environment, which pointed to a greater need for paid maternal leave for older adoptees.

How will the judgment help adoptees and their parents?

- **Support for Adoptive Mothers** – Adoptive mothers now have a statutory right to 12 weeks of paid maternity leave, regardless of the child's age, ensures they don't have to

rely solely on employer goodwill or sacrifice their careers.

- **Emotional Security for Adoptees** – Adopted children often face multiple transitions—from birth families to institutions, and then to adoptive families.
- Paid leave allows mothers to be present during this critical period, helping children feel secure and attached.
- **Equality with Biological Mothers** – The judgment removes the discrimination between biological and adoptive mothers.
- Both now have recognized rights to maternity leave, affirming that motherhood is not limited to biology.
- This strengthens the principle of reproductive autonomy and equal treatment under the law.
- **Practical Impact** – Adoptive mothers no longer need to quit jobs or take unpaid leave & older adoptees, who were previously excluded, now benefit from maternal care during their adjustment period.
- Adoption is acknowledged as a legitimate path to parenthood, with equal social security benefits.

What did the Court say about paternity leave?

- **Call for Paternity Leave** – The SC urged the Union government to examine the need for a formal law recognizing paternity leave for all fathers, adoptive or biological.
- **Shared Parenting** – The Court noted that India's current legal framework does not adequately account for fathers' role in childcare, it emphasized the importance of shared parenting.
- **Current Situation**
  - **Government employees** – As of now, only male government servants are entitled to 15 days' paternity leave for the birth of a child or adoption.
  - **Private sector** – Leaves in the private sector are generally determined by company policies.

Reference

The Hindu | What did the SC say about paid maternity leave?

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