

Applicability of Maternity Benefit to Women Employee

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Case study: An Employer has engaged a woman employee in a senior category employment and in just 2 months of her joining (DoJ May 10) she suddenly send a message that she is Pregnant and applying for Maternity Leave (EDD Nov 6)..... Employer was shocked, as the Project was in Mid-way and also fearing that he has to pay the Maternity Benefit for this employee, for 26 weeks, who had just joined....

What Employer has to do? : REFER Section 5(2) of Maternity Benefit Act which states the eligibility of an Employed woman (direct or contractual or through vendors) : No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than **eighty days in the twelve months immediately preceding the date of her expected delivery**

How to compute eligibility (only Notional and not absolute) ...Let us take an example and do calculation:

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| Expected date of delivery | November 6 (considering 40 weeks the maximum, though the EDD may be any date between 38 to 40 weeks (as per Medical Science) Maximum days of 280 days computed from January 1 |
| 8 weeks of Maternity leave Prenatal period starts on | September 15 (considering pregnancy being 1 st or 2 nd) |
| 80 days of work starts from (wages paid days) | June 27 (So, even if a woman joins an Organization on June 26 also she is eligible for Maternity Benefit) |

I know.....What as an HR Professional, you are thinking..... How to ask, Marital Status and Maternal Plans of prospective women applicants..... (to avoid challenges as above).... It is now considered as Offensive, in Indian Industry (though there is no legislation in India to govern these discrimination). Once a Campus-out applicant asked me whether I can pose these questions to Men, as a level playing field. (I had no answer, then and stopped asking such questions later). This is very sensitive, and It is suggested to avoid such gender sensitive questions during Recruitment. Brand Protection is primary, which every HR professional needs to know.

By the way, the answer to the case study is, YES..... the employee is eligible for benefit.

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