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THE CHANGING PARADIGM OF FAMILY:

DEEPIKA SINGH V. CENTRAL ADMINISTRATIVE TRIBUNAL

~Pragna Putcha

ABSTRACT

This paper pertains to the question of how the law should define a family when many households no longer fit the traditional model of a married couple and their biological children. It examines Deepika Singh v. Central Administrative Tribunal (2022), in which a nursing officer at PGIMER Chandigarh was refused maternity leave for her first biological child under Rule 43 of the Central Civil Services (Leave) Rules, 1972, because she had already taken child care leave for her two stepchildren. The Central Administrative Tribunal and the High Court both upheld the refusal. The Supreme Court reversed them, reading "family" as gender-neutral and inclusive of single-parent families and stepfamilies, and held that maternity leave and child care leave are separate entitlements, so denying one because of the other violated Article 14 of the Constitution. The paper sets out the facts, the issues and the Court's reasoning, and agrees with the decision. It also suggests the judgment could serve as a precedent in later cases involving non-traditional families and marriages.

INTRODUCTION

Family is one of the oldest social institutions, going back to ancient times. Over time, the notion of what exactly defines family has changed. Although the underlying foundation behind what defines family has remained the same, i.e., a unit that is defined by family and kinship, the way that this definition portrays itself has transformed in recent times. New forms of family have emerged, such as single-parent families, same-sex couples, stepfamilies, etc. It has become ever more pertinent for courts to adapt to the changing times and broaden the common understanding of family. In the case of Deepika Singh v. Central Administrative Tribunal, the Apex Court widened the definition of family and extended child-care benefits to atypical families.

STATEMENT OF FACTS

The appellant, Deepika Singh, was at the time working as a Nursing Officer at the Post Graduate Institute of Medical Education and Research in Chandigarh. She had been employed there since 25 November 2005. On 18 February 2014, the appellant married Amir Singh. He had been married before his marriage to the appellant, but his wife had passed away on 16 February 2013. From his first marriage, he had two children. The appellant filed an application

on 4 May 2015, requesting the authorities at PGIMER to enter the names of the two children born from the first marriage of her spouse in the official service record.

On 4 June 2019, the appellant gave birth to her first biological child from her marriage. Subsequently, she applied for maternity leave for the period from 27 June 2019 to 23 December 2019 under Rule 43 of the Central Civil Services (Leave) Rules, 1972. The authorities at PGIMER sought clarification on 3 July 2019, as it was on record that the appellant had two surviving children. The appellant clarified that she had two surviving children and had availed child care for them as well. Consequently, her application for maternity leave was rejected on the grounds that she had two surviving children and was deemed inadmissible in terms of the Central Civil Services (Leave) Rules, 1972. Thus, her leave for the period from 30 May 2019 to 31 November 2019 was treated as earned leave, medical leave, half-pay leave, and extraordinary leave, respectively.

Aggrieved by this situation, the appellant moved the Central Administrative Tribunal at its Chandigarh Bench by way of Original Application No. 155 of 2020. In a judgment dated 29 January 2021, the Central Administrative Tribunal dismissed the OA, holding that it is clear that maternity leave can only be granted to a female government servant if she has less than two surviving children. It is on record that the appellant has two surviving children, and that she had been availing Child Care Leave and other benefits in their respect. Consequently, although this is her first biological child, it was considered as her third child. In view of the above, it was decided that the decision to reject the maternity leave was correct, even though it may be the applicant's first maternity leave.

The appellant then approached the High Court by way of a writ petition under Article 226 of the Indian Constitution. On 16 March 2021, the High Court dismissed the petition because there was no illegality or perversity in the decision made by the Central Administrative Tribunal.

ISSUES

Thus, the Supreme Court had two issues before it:

1. Whether the definition of 'family' under the Central Civil Services (Leave) Rules, 1972, is limited to a traditional nuclear family.
2. Whether the denial of maternity leave to a woman who has already availed child-care benefits and Child Care Leave for her stepchildren would violate her right to equality under Article 14 of the Indian Constitution.

COURT’S DECISION

The Supreme Court took a different approach from that of the High Court in interpreting what constitutes a family under the Central Civil Services (Leave) Rules, 1972. In the judgment, the Supreme Court interpreted the definition of 'family' to be gender-neutral and inclusive of all forms of families, including single-parent families, same-sex couples, stepfamilies, etc. The Apex Court went beyond the traditional definition of a family, expanding it beyond that of a nuclear family, i.e., a husband, a wife, and their biological children. The Bench, consisting of Justice D.Y. Chandrachud and Justice A.S. Bapanna, reasoned that in modern times, the

traditional notions of family are outdated and do not take into consideration the reality of many families, such as those children born out of wedlock, same-sex couples raising a child together, stepchildren, etc.

The Apex Court held that maternity leave and child care leave are two distinct entitlements. They further elaborated that, just because the appellant had availed child care benefits regarding her two stepchildren and had taken up child-care responsibilities "in ways that may not find a place in the popular imagination", it does not necessarily mean that she cannot avail maternity leave for her first biological child.

The Supreme Court concluded that even though PGIMER had permitted the appellant to register two non-biological children and avail of child-care leaves, she would still be entitled to maternity leave under Rule 43 of the Central Civil Services (Leave) Rules, 1972, for her first biological child. They further contended that denying the appellant maternity leave because she had already availed child care leave for her two stepchildren would violate her right to equality under Article 14. In essence, they asserted that 'atypical' families deserve the same equal protection under the laws guaranteed in Article 14 of the Indian Constitution and benefits available under social welfare legislation.[1]

ANALYSIS AND CONCLUSION

I agree with the Apex Court's decision, as it marks a significant step towards inclusiveness in the interpretation of family law. The judgment recognizes and responds to the changing nature of society by acknowledging the changing paradigm of what constitutes a "family." By moving beyond a rigid, traditional understanding of family structures, the Court affirms that legal recognition must keep pace with social realities. In doing so, it opens the door to the inclusion of non-traditional family units such as single-parent households, same-sex couples, stepfamilies, and other caregiving arrangements that do not conform to conventional norms but perform the same social and emotional functions.

Furthermore, the reasoning adopted in this case has the potential to extend far beyond the case put before the Court. It may serve as an important precedent in future cases involving atypical or non-traditional marital relationships, including same-sex marriages, marriages within marginalized or historically excluded communities, and other non-traditional unions. By foregrounding principles of equality, dignity, and inclusivity, the judgment lays the groundwork for a more expansive and progressive understanding of family and marriage under constitutional law.

[1] *Deepika Singh v. Central Administrative Tribunal*, (2022) 7 SCC 457.