



COMMERCIAL/CORPORATE

Can a Woman Be Terminated for availing Maternity Leave or Denied Maternity Benefits?

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The **Maternity Benefit Act, 1961** is a beneficial legislation in India designed to safeguard the employment rights of women during pregnancy and childbirth. It ensures that women employees, including those working on contracts, are entitled to maternity benefits and job security during one of the most critical phases of their lives. Among its many provisions, the Act explicitly addresses whether a woman employee can be terminated for availing maternity leave or denied maternity leave altogether.

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Key Provisions Protecting Women Employees

The Act provides comprehensive safeguards for women employees during their maternity period. Two crucial sections: **Section 12** and **Section 27**—directly deal with protections against termination or denial of maternity leave.

Section 12: Protection Against Dismissal During Maternity

Section 12 of the Act explicitly prohibits employers from dismissing or terminating a woman's employment on account of her pregnancy or absence due to maternity leave. Here are the critical aspects of this provision:

1. **Prohibition of Dismissal:**

- Employers cannot discharge, dismiss, or issue a termination notice to a woman during her maternity leave or due to reasons related to her maternity.
- This protection extends to the **resumption of work** after maternity leave. Employers cannot penalize a woman for exercising her legal right to maternity leave.
- Employers cannot alter the terms of employment or service conditions to a woman's disadvantage because she availed maternity leave.

2. **Consequences of Unlawful Dismissal:**

- If a woman is dismissed unlawfully, she retains her right to all maternity benefits, including wages and medical bonuses.
- Employers may face penalties for such actions (detailed below).

3. **Exception for Gross Misconduct:**

- In cases of proven gross misconduct, employers may deny maternity benefits, but the denial must be communicated in writing.
- Women have the right to appeal such decisions within **60 days**.

Section 27: Precedence Over Other Laws or Agreements

Understanding Section 27

1. **Primacy of the Act:**

- Section 27 states that the provisions of the Maternity Benefit Act override any conflicting terms in other laws, contracts, agreements, or awards.

- This ensures that the minimum protections under the Act are upheld, even if an employment contract includes less favourable terms or pre-terminates on account of efflux of time.

2. More Favourable Terms:

- If an employment agreement offers better maternity-related benefits or protections than the Act, the more favourable terms will prevail.

3. Termination by Efflux of Time:

- Termination of an employment contract due to its natural expiration (efflux of time) is generally recognized under employment law.
- **However, Section 27 ensures that maternity rights are protected during this period, preventing misuse of contract expiry as a reason to deny maternity benefits.**

Termination and Maternity Protections

1. Contract Expiry During Maternity Leave:

- If a fixed-term contract is set to expire while the woman is availing maternity leave, the employer **cannot deny her maternity benefits** (including payment for the full duration of leave and medical bonuses).
- The contract's expiry cannot be used to bypass the protections granted under the Act.

2. Renewal or Non-Renewal of Contract:

- If a contract naturally expires post-maternity leave, the employer is not legally bound to renew the contract unless renewal is a standard practice.
- However, if non-renewal is linked to the woman's maternity leave or her status as a mother, it could be considered discriminatory and a violation of the Act.

Eligibility for Maternity Benefits

Under the Act, a woman must meet the following criteria to be eligible for maternity leave:

- She must have worked at least **80 days** in the 12 months preceding her expected delivery date.
- The Act applies to all women employees, including those employed through agencies or on a contractual basis.

Penalties for Employers

Employers who unlawfully terminate or deny maternity benefits to women employees may face severe penalties under **Sections 21 and 22** of the Act:

1. For Failure to Pay Maternity Benefits or Unlawful Dismissal:

- **Imprisonment:** Minimum **3 months**, up to **1 year**.
- **Fine:** Between **₹2,000** and **₹5,000**.

2. For Obstructing Inspectors or Violating Other Provisions:

- **Imprisonment:** Up to **1 year**.
- **Fine:** Up to **₹5,000**.

The Right to Appeal

If a woman is denied maternity leave or dismissed during her maternity period, she has the right to:

- Appeal such decisions within **60 days**.
- File a complaint with an Inspector, who can direct payments and investigate wrongful terminations.

Conclusion

The **Maternity Benefit Act, 1961**, unequivocally protects women from being terminated for availing maternity leave or denied maternity benefits altogether. These protections ensure that women can embrace motherhood without the fear of losing their jobs

or financial stability. Employers are not only bound by the law to provide maternity benefits but are also held accountable through stringent penalties for any violations.

The **principal employer** holds the ultimate responsibility for ensuring that maternity benefits are provided to all women employees employed through contractors. Although contractors may be tasked with the administration of such benefits, any failure on their part does not absolve the principal employer of liability. Employers must ensure strict compliance with the **Maternity Benefit Act, 1961**, to safeguard the rights of women and avoid legal repercussions.

Women employees must be aware of their rights under the Act and assert these rights in case of non-compliance. For organizations, adherence to the Act is a moral responsibility to encourage an equitable and supportive workplace for women, not just a legal obligation.

For further details write to us at contact@indialaw.in

Frequently Asked Questions

Can a woman be terminated for availing maternity leave?

No. Section 12 of the Maternity Benefit Act, 1961 prohibits an employer from dismissing or terminating a woman on account of her pregnancy or her absence on maternity leave, and bars altering her service conditions to her disadvantage for availing such leave.

Does the Maternity Benefit Act override an employment contract?

Yes. Section 27 provides that the Act's provisions take precedence over any conflicting terms in other laws, contracts, agreements, or awards, so the minimum protections under the Act prevail even if a contract says otherwise.

Can an employer ever deny maternity benefits?

Only in cases of proven gross misconduct, and the denial must be communicated to the woman in writing. She has the right to appeal such a decision within 60 days.

Are women on contract entitled to maternity benefits?

Yes. The Act is a beneficial legislation that protects women employees, including those working on contracts, ensuring maternity benefits and job security during pregnancy and childbirth.