



Reforms Required in Paternity Leave – in Companies

¹Varshitha Sama, ²Koleti Shiva Kumar, ³Jillellamuudi Sai Teja, ⁴Dr. P. Hima Jagathi

^{1,2,3}BBA, Koneru Lakshmaiah Education Foundation, Deemed to be University

⁴Associate Professor, Koneru Lakshmaiah Education, KLH Global Business School Foundation, Deemed to be University

Abstract:

The paternity leave explains about after giving birth to a child the father has right to take paid leave for some days . In this paper we will have a look on already existing paternity leave laws according to paternity benefit bill,2017. And look over what can exactly be considered as which can be come under scope of paternal leave especially with reference to the latest decriminalisation of homosexual couples. In this research paper we will have a look on analysis of the case chandermohan jain V. N.K.Bagrodia high school. Chandermohan jain was the first person or his case was the first case that discussed about paternal leaves in private schools or institutions about how in india paternity leave can be enforced.

Introduction:

The project is titled as “a study on paternity leave” in the project the interns aimed to converse about the parental leave in india. For the candidates who are are preparing for competitive exams also have relevant policies, legislations and rules of paternity leave . to take care of their child and family both father and mother has equal responsibility so paternity and maternity leaves are entitled for both father and mother . It is important to note that irrespective of anything an employer has to give importance for such basic necessities that are rather mandated by the laws of nature and instincts because, when it comes to employment , it is not only used by an employee to attain financial gains but rather it is used by such an employee to carry out self realization. Indian government announced maternity benefit act in the year 2017, mandating a compulsory maternal care leave for mothers to nurture their newborns. Due to this concept a new question arose that “what is the scope for a paternity leave?” which leaves us with an answer that the paternity leave in private entities has no legislation mandating. One of the main reason for proper structuring and mandating of paternity leave is to remind father also have same responsibility on taking care for his child and also to kill the society’s view that childbirth and care are restricted to the mothers alone. The paternity benefit bill advocated for the same, but the bill never made it as an act. Paternity leaves helps fathers to spend quality time with their new born child and family and support to the needs of home front . Both parents spending time with their child formative years helps the child to build a strong and healthy bond with their parents . It will be an example for the child that care giving is a shared responsibility for both parents and care giving is not gender based responsibility.

Research problem

About the paternity leave the Indian labour law regime is quiet as a result of which it rather becomes convenient for most of the employers to deprive their employees off their basic humanly instinct.

Research objectives:

1. To analyse the standards of a parental leave
 2. To analyse the loopholes on paternity leaves
 3. To suggest and formulate a plan to aid paternal leave policies
-

Research Methodology:

This research analyses the Proposed Paternal Benefit Bill while also taking into consideration the definition of the term “Paternity” and analysing it in the terms of homosexual couples. The research also seeks to take into consideration the cons of not legalizing paternity leaves while it will also look into relevant case laws which have

pronounced in favor of paternal leave policies while also suggesting relevant conditions for the same. The research will further deliberate with regards to the labor standards mandated by Bodies as under the International Conventions (If any) while also looking at the status of paternal benefit leave in foreign countries.

Literature:

For both parents giving birth to a child is a big event in their life so it is required for both the parents to spend quality time with their child and take care of their child. This paper discusses about that father who are on paternal leave are more likely to remain involved in parenting and partners equally divide household routine in long term. The publication emphasizes on the need for paternal leave while also taking into consideration the Policies that are seen all over the world. The publication clearly talks about the concept of parenthood being something that demands responsibility from both the father and the mother as a result of which depriving someone of a chance to fulfil their societal and humanitarian obligations would be a grave moral turpitude. The publication merely gives an idea with regards to the concept of paternity leave but however the Study of the concept of Paternity as under the Indian Labor Law Regime cannot be relied upon this publication alone. Publication helps to determine the need for parental leave policies in a given society. The publication talks about the role of parents in the infant stage of an individual and why parental leave is an essential factor that has to be considered while talking with regards to a society as whole. The publication talks about the various parental leave policies that exist all over the world deliberating on the pros and cons of the same and analysing as to how

exactly do these policies affect the Nation's economy at large.

Paternity- An Analysis

The type of leave which is given to fathers, non birthing parents and secondary caregivers to take care of their child and build strong relationship with their new born child or adapted baby is paternity leave. Paternity leave is also called "parental leave" – it is included in local employment law, if the employers meet eligibility requirements employees must grant parental leave to their employers. It is sad to know that the term paternity is not defined under Indian law. Now, what exactly comes under the scope of the terms "Father" and "Fatherhood". Biologically the term "Father" is restricted to a male who has contributed towards the formation of the child, but socially it is something that can be extended to adoptive parents too. Fatherhood is an essence of parenthood. Paternity is an important aspect that has to be taken into consideration to determine the outcome of this project because of the fact that many legal modifications were made in the last decade with special reference to the rights of homosexual couples as well as the transgenders. It is very important to note that in the cases of NALSA⁵ and Navtej Singh Johar⁶, they not only talked about the existence of a third gender or decriminalization of homosexuality but they rather talked about the various rights that are to be given to the members of the aforementioned fraternity to ensure that no discrimination takes place and the individuals continue to lead their lives bound equally by the laws governing them which in turn are in consonance with various humanitarian laws. The usage of the term "paternity" states that the homosexual couples or the individuals and the members belonging to the transgender community cannot come under the scope of paternity which makes it outdated. It is important to note that the lack of proper definition as under the Indian Laws with regards to terms such as "Paternity", "Fatherhood" leave it to the members of the society to

determine as to what does and what doesn't come under the scope of these terms thereby making it such that the minority are deeply affected and their Right to Parenthood is affected.

Paternity leave

Paternity leave policies and there were no rules and legislations under this act which were enforced to work employees accordingly because private sectors were free to incorporate. Many private sectors give paternity leave to their employees all over the world some of them are as follows

Zomato :

Zomato offer paid parental leave of 26 weeks to their employees. For both male and female employees on becoming new parents it provides subsidizing amount of 69000rs.

Tata consultancy :

For the employees who are becoming new parents the tata consultancy services is offering 15 days of paternity leave.

Western india palm refined oils limited (wipro):

Wipro services gives 8 weeks leave as paternal leave to its employees. Infosys:

Infosys services to their employees it offers 5 days of paternal leave. IKEA:

The employees of IKEA are given a six-month paternity leave and such a paternity leave covers the adopted parents, single parents and the married parents which providing no hunch with regards to the status of the same-sex parents.

International scenario of paternity leave:

For male employees UNICEF used to offer paternity leave of four weeks but now it is extended to sixteen weeks in all over world.

To be with their newborns during the particular crucial and difficult period the parents are offered about a year of paid paternity leave in Britain, Sweden, Norway countries.

Policies of paternity leave and international corporates

So many biggest companies have taken their own steps towards paternity leave through HR policies such as Deloitte is offering 16 days of paternity leave to their employees and Microsoft is giving 12 weeks of parental leave to its employees, facebook is offering 17 weeks of paternal leave which is in lead , Accenture is giving 22 weeks of paid paternal leave and finally oracle is giving only 5 days of paternity leave to its employees.

Some more examples are as follows:

For Netflix : Netflix is giving one year of paternity leave to its employees

For Coca cola : coca cola is giving 6 weeks of paternity leave this leave is applicable in adaption as well as even to who take foster care.

For Johnson and Johnson: it offers eight weeks of paternity paid leave and it also in the first year of child birth it offers increments to its employees

For mickinsey and co: the paternity leave of 8 weeks is offered to its employees.

Further, the period of 15 days is very less and will really not make any difference as opposed to the twenty-six-week maternity leave that is given to mothers. It just goes on to prove that the Indian society treats men and women unequally where the women are only expected to take care of the newborn while the men are rather expected to return back to their work in a much shorter span of time. Further, the same-sex couples and the transgenders are excluded from these rules, which makes the law pretty outdated on that front.

Brief Analysis of v.N.k Bagrodia public school of chander mohan jain

The delhi high court held that private institutions and the male employees entitled to paternity leave by Chandra mohan jain case . In this case, one Chander Mohan Jain was employed as a teacher in a private school, he made an application seeking paternity leave to the school administration, which was rejected, and deductions were made from his salary for the duration of the leave. This rejection was challenged before the High Court, and the Court ruled in favour of Chander Mohan Jain, and the deducted amount was refunded to him.

Judgement and analysis:

The Court held that the application for the paternity leave is to be considered as valid and ordered the respondent school to refund such a deduction of the salary. The rationale behind such a judgement is however not something that can be applied universally in determining the applicability of the Paternity Leave. The main rationale is that all the unaided public schools will come under the scope of the Central Government Civil Services Rules, 1972 as under the Delhi Schools Education Act and Rules 1973 as a result of which owing to the fact that the Civil Services Rules has a provision for the paternity leave and also taking into mere 11 (2009)163DLT 1 427 International Journal of Law Management & Humanities consideration the fact that the schools will come under the supervision of the Director of Education as under the state laws, the act of the school in denying the petitioner of his right to paternity leave is unlawful.

Parental leave Rule:

All the employees who are working in both unorganised as well as private institutions have all the right to get paid paternity leave of fifteen days according to paternity benefit bill in the year 2017. And also this paternity leave period also can be extended to three months period.

The every male employee who worked for minimum 80 days in an organisation are eligible to get the paid paternity leave or benefits. The average daily wage paid to the employee for the number of days the employee actually worked are calculated as paternity benefits.

The paternal benefit should be equally given to both mother as well as father according to the bill passed by Indian law.

While adopting the child who is below the one year according to the 7th central pay commission provision of leave to be granted to a government employee.

Discussions:

The government of india in 1961 made provisions for working women who are pregnant called as maternity benefits. Under maternity benefit act womens are entitled to many incentives, benefits and facilities

For paternity benefits no provision has been laid down in legislation. Necessity of laying down of provision for paternity leave to maintain and develop a healthy family can be seen.

The Central Government of india in 1999, for Central Government employee under Central Civil Services (Leave) Rule 551 (A) made provision of paternity leave.

As a paternity leave it provides 15 days. Paternity leave is given to the employers who have less than two child's. The employees are availed leave within 6 months from the date of delivery of the child or it can be given for 15 days.

Maternity Benefit (Amendment) Act, in September 2017, the Paternity Benefit Bill, 2018 ("PB Bill") was proposed in the Lok Sabha by MP of maharashtra, Rajeev Satavv.

According to the rule passed by paternity benefit bill the paternity leave is given by a male central government employee, including apprentice and probationer. It is given for a 15 days period and parents with less than two surviving child.

Conclusion :

The paternity leave must be given to both male workers as in the case of other countries.

To maintain a healthy marriage and family paternity leave will play a crucial part in their life. It is allowed the new Father to spend time and communicate with their new born child and his family.

This remember father role his role as dad and also it encourages his father to spend time and enjoy with his family members. It also helps to decrease tends and stress of family.

It helps to reduce mothers strain.

After giving birth to the child women go through postpartum post-Traumatic stress disorder (PTSD) . They experience severe depression and suffer from mood swings and may become emotionally.

To resolve the PTSD postpartum it is very necessary job. The pregnant women who are aggrieved must battle with both mental and health challenges as well. Since the inability to take care of these mothers helps them thrive in despair. If she got help from her husband at that time it would be easier to the mother to resolve and to lead an enjoyable family relationship with her family.

The apportionment of paternity leave not only supports the family but also it encourages that both men and women are equally important.

The legislative requirements implementation will be helping to break the laws and promote the rewrite of women and men's positions and obligations. At last in the final analysis, the country will get benefited.

The most important advantage accrues from paternity leave as its make easy to control pressure and stigma from women at workplace so that they will be not only one who is taking care of their child development and purposes.

The main objective is content people of a welfare state. The paternity leave benefit will not only contribute to a great child care but it also calls for a shared responsibility at the household thereby breaking down the gender stereotyping on the roles of men and women in the society which calls for an immediate need to enforce such a law that is updated, inclusive and viable in this sphere.

Limitations of paternity leave:

1. Costs of the companies are increasing : offering paid paternity leave to both the parents for 26 weeks, is a very big decision. Most importantly startup companies my not be able to manage and handle the cost that comes with less productivity for the time that the company follows. The HR will Face huge imbroglio as HR strives to find out whether the prospective employee is in the reproductive age before hiring to ensure that they will be always be ready to bear the burden.
2. Lack of productivity: Your employer will be in a serious dilemma when you are on paid leave and that too for such an extended period of time. The employer will face shortage of workforce and to fill the place employer might not be in a position to hire extra people while you take care of your little one or baby at home or perhaps catch football matches. In this process productivity is bound to decrease.
3. Gandhi may not be false after all : It is fact that men are misusing the time of paternity leave by simply considering them as holidays to relax . The reason why pregnant women are given maternity leave is because they need time to heal and take care of the little one and take care of themselves. This cannot be same for the men. They do not need to recover from the fact that the little one keeps him up on night.
4. Financial condition of company will suffer : There are certain drawbacks for employer for being on a long paid period of leave even when the leave is of paid because employees growth and promotions will be affected. It is same for women but since mothers have no other choice, it is understandable by the companies. It will become more difficult to take care of the needs of the extended family with both Patners risking their development in the job in that certain period of time.

Especially when it comes to rescuing the bias against women at the workplace Gender neutral paternity leave does have its own advantages. It does have its own drawbacks too. while putting promotions and growth prospects at risk not all the parents are in the same suitable situation or in position in their lives and sacrifice their work life and stay at home for 26 weeks. The solution might be an optional paternity leave for the employers.

It decreases the chances of growth of employers due to 26 weeks of paternity leave period in their life. So giving and taking paternity leave have its own benefits and limitations for employers and the companies too.

REFERENCES:

<https://www.omnipresent.com/articles/what-is-paternity-leave>

https://legatoapp.com/legato/home/blog_single/324/Paternity%20leave%20in%20India

<https://www.careerride.com/view/gender-neutral-parental-leave-pros-and-cons-29315.aspx>

<https://byjus.com/govt-exams/paternity-leave-india/>

https://www.researchgate.net/publication/345814140_Paternity_leave_A_systematic_review_of_studies_in_education_and_psychology_from_1990-2019