MENDOZA, Amie M.
Re Appeal; Maternity Leave
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RESOLUTION NO. 020911

Dr. Amie Mendoza, Assistant Professor IV, Tarlac State University (TSU), by counsel, appeals from the Order dated March 20, 2001 of the Civil Service Commission Regional Office (CSCRO) No. III, denying her of any entitlement to maternity leave benefits.

The assailed CSCRO No. III Order ordains, in material portions, as follows:

"From the above-quoted civil service rules, it is very clear that in the government service, only female married women may avail of maternity leave. xxx

"The following facts are borne out by the records of the case:

1. *The marriage between Dr. Amie M. Mendoza and Angelito Mendoza was annulled in 1997 x x x*
2. *Dr. Mendoza conceived and gave birth to Amiel Ponce on July 17, 2000. x x x*
3. *Dr. Amie's pregnancy was by her erstwhile husband x x x*
4. *Dr. Amie Mendoza is now happily reconciled with Angelito Mendoza whom she plans to eventually remarry. x x x*

"It is clear from the foregoing undisputed facts that at the time of Dr. Mendoza's pregnancy and delivery which resulted to the birth of Amiel Ponce on July 17, 2000, the marriage between Dr. Amie Mendoza and Angelito Mendoza is no longer subsisting, the same having been annulled in 1997 and no remarriage has yet been celebrated (which is true up to this time). She, therefore, does not meet the requirement of the law, i.e., a married female employee. The fact that she and her erstwhile husband (Angelito) had reconciled, renewed their relationship, cohabited with each other which caused her to be impregnated (by her erstwhile husband) and have plans of remarrying x x x will not cure the deficiency.

x x x

"WHEREFORE, Dr. Amie M. Mendoza is not entitled to maternity leave benefits in the amount of twenty four thousand and three pesos (P24,003.00) from June 7, 2000 to August 3, 2000."

In impugning the above Order, Mendoza assigns the singular error that the CSCRO No. III "erred in not excepting appellant from Sections 11 and 13, Rule XVI of CSC Memorandum Circular No. 41, s. 1998, when compelling equitable considerations that call for the relaxation of the rule are manifest in the birth of Amiel Ponce Muldong Mendoza."

It is her submission that the strict application of the rule on maternity leave benefits should not encompass her considering that she "is situated exceptionally in a very extreme circumstance." *Au contraire*, the Commission should rather "relax the rule as an aid to justice and thereby prevent its becoming a great hindrance and chief enemy of equity." She posits the view that generally, "where the law does not make any exception, courts may not except something unless compelling reasons exist to justify it." In her case, she contends that "compelling reasons and a laudable purpose exist to justify a relaxation of the stringent application of the rules so as not to defeat (her) exceptionally meritorious situation." She advances the following reasons:

"First, our Family Code and several family or marital laws strongly promote and encourage family reconciliation, especially among separated spouses. This is in consonance with the clear mandate of the 1987 Philippine Constitution to render due emphasis to family integrity and solidarity. Amiel Ponce is an evident fruit of this much desired reconciliation.

x x x

"Secondly, it should be underscored that the law on maternity leave benefits was crafted primarily to assist and support the beneficiary in weathering the medical hardships of child birth or possible miscarriage. In other words, the benefit is generally given to pregnant women, regardless of their civil status. In fact, under the SSS law, the benefit is indiscriminately afforded to every female employee-- that is, without regard on whether she is married or not.

x x x

"Lastly, by the principle of estoppel, the university is already barred from rejecting Dr. Mendoza's claim for maternity leave benefits. Her application and clearance for maternity leave were all considered and approved by the concerned officials; Dr. Mendoza is now entitled to enjoy her benefits without any further delay."

Finally, she invokes the constitutional obligation of the State to protect and safeguard the sanctity of the family and its solidarity, it being the basic autonomous social institution and the foundation of the nation, as a sufficient justification to warrant her the benefit of the maternity leave privilege. Denying her such benefit would, to her mind, be "subversive to the stability of the family, a basic social institution which public policy cherishes and protects."

The instant controversy traces its genesis when just like any couple bedazzled by the charm of starting a life together, Mendoza and her estranged husband, Antonio Mendoza, trudged down the aisle of matrimonial union in 1989. Their marital bliss proved to be short-lived, however. In 1997, although already blessed with one child, they faced serious differences that soon led to the judicial dissolution of their marital ties. The resultant marriage annulment notwithstanding, through the help of their relatives and friends, the two rekindled their love and affection for each other, causing them to reconcile and cohabit anew, in the hope of taking another crack at marriage. A few months passed, Mendoza conceived for the second time.

Anticipating the birth of their second child, Mendoza applied for a sixty-day maternity leave with her employer, the TSU, effective from June 5, 2000 to August 3, 2000. Owing to the absence of any information regarding the annulment of her marriage, the TSU stamped its imprimatur to the maternity leave application. Shortly thereafter, the University got wind of the marriage annulment, and Mendoza was thereupon advised of the denial of her maternity leave benefits for the reason that at the time of the childbirth, she was not married. Obviously aggrieved by the sudden turn-around, Mendoza, through counsel, appealed. To resolve the issue definitively, the University foisted a query before the CSCRO No. III, which was replied to by way of the Order now being challenged.

The crux of the present controversy lies in the application of the civil service rule governing the grant of maternity leave benefits as embodied under **Section 11 of CSC Memorandum Circular (MC) No. 41, s. 1998, as amended by CSC MC No. 14, s. 1999**, which stipulates:

> *"**Sec. 11. Conditions for the grant of maternity leave**. – Married women in the government service who have rendered an aggregate of two (2) or more years of service, shall, in addition to the vacation and sick leave granted them, be entitled to maternity leave of sixty (60) calendar days with full pay.*
>
> *"In the case of those in the teaching profession, maternity benefits can be availed of even if the period of delivery occurs during the long vacation, in which case, both the maternity benefits and the proportional vacation pay shall be received by the teacher concerned.*
>
> *"Maternity leave of those who have rendered one (1) year or more but less than two (2) years of service shall be computed in proportion to their length of service, provided, that those who have served for less than one (1) year shall be entitled to 60-day maternity leave with half-pay.*
>
> *"It is understood that enjoyment of maternity leave cannot be deferred but it should be availed of either before or after the actual period of delivery in a continuous and uninterrupted manner, not exceeding 60 calendar days."*

Going by its literal language, the above-quoted provision confines or restricts the grant of maternity leave benefits to a female employee, who is married and is about to deliver or has just delivered a baby. Strictly speaking therefore, Mendoza, not being married at the time of her child-birth, should be ineligible from availing the same, inasmuch as her marriage was judicially

dissolved in 1997, and the delivery came in 2000.

But there are certain factors that persuade the Commission, insofar as the peculiar facts of this particular case, from readily adopting such a view. As a matter of fact, it is convinced that to relax the rule on the grant of maternity leave benefits with respect to Mendoza would better conduce to the interests of all concerned. Moreover, recent trends in family laws support such a liberal treatment.

The grant of maternity leave benefits partakes the nature of a social measure or legislation. Being a social legislation, it is the welfare or well-being of the intended recipients or beneficiaries – the working mothers in the employ of the government – that is of primordial concern. Thus, whenever so dictated by the attendant facts and circumstances, the rule on maternity leave benefits may be adjusted depending on the peculiarities of each case. Ultimately, a law or rule should not be so rigid and inflexible as to be immune and resistant to any adaptation or change. For when such law or rule loses its ability to cope with actual exigencies or realities, it loses its force and relevance, and it becomes useless as an instrument of public order and stability.

In the present case, given the surrounding factual milieu, the better rule is to warrant Mendoza her entitlement of maternity leave benefits. While she is not married at the time of her delivery in the sense that the matrimonial union binding her and the father of her baby had been dissolved earlier, no material prejudice or substantial detriment would be caused to the public interest were she be permitted to claim such benefits. Remember that the child, whose delivery it was which prompted Mendoza's application for maternity leave, though begotten out of wedlock, is not a product of an illicit or immoral relationship. He/she is, in fact, the ripening fruit of the reconciliation efforts of two couples, who, after improvidently breaking their marital bond, have realized their past mistakes, and are ready to embark once again towards rebuilding their family. It would be dealing a harsh and fatal blow to such reconciliatory measure, which the law looks with great favor and even encourages considering the weighty importance of a strong and unified family in Philippine societal fabric, if Mendoza is imprudently denied her claim.

More importantly, Mendoza's bid may be founded on the provisions of Republic Act (RA) No. 8972 or the so-called Solo Parent's Act. In brief, RA No. 8972 extends certain rights and privileges to solo parents in due recognition of their sacrifices in single-handedly raising their children to become disciplined and productive members of society. The term "solo parent" to which the law refers, imports or contemplates any of the following categories:

1. a woman who gives birth as a result of a rape and other crimes against chastity;
2. parent left solo or alone with the responsibility of parenthood due to death of spouse;
3. parent left solo or alone with the responsibility of parenthood while the spouse is detained or serving sentence;
4. parent left solo or alone with the responsibility of parenthood due to physical and/or mental incapacity of spouse;
5. parent left solo or alone with the responsibility of parenthood due to legal separation or de facto separation from spouse for at least one year;
6. parent left solo or alone with the responsibility of parenthood due to declaration of nullity or annulment of marriage as decreed by a court or by a church, as long as he is entrusted with the custody of children;

7. parent left solo or alone with responsibility of parenthood due to abandonment;
8. unmarried mother/father who has preferred to keep and rear her/his child/children, instead of having others care for them or give them up to a welfare institution;
9. any other person who solely provides parental care and support to a child or children; or
10. any family member who assumes the responsibility of head or family, as a result of death, abandonment, disappearance or prolonged absence or the parents or solo parent.

Mendoza may appropriately fall under item 8 above, considering that at the time she had a childbirth, she was already legally single on account of her marriage annulment.

That being said, what then are the rights and privileges to which she can properly lay claim?

The Solo Parent's Act does not explicitly contemplate the grant of maternity leave benefits to solo parents. In terms of leave privileges, what it extends is a seven-day paternity leave. This fact notwithstanding, the Commission, in the exercise of its rulemaking powers, deems that the laudable purpose and intent of the law may be better subserved if the same entitlement, i.e., maternity leave, be extended to solo parents. The spirit of the law is to remove the social stigma that has attached to individuals who decide to have a child or children of their own without the benefit of marriage. What better way to achieve or attain this noble purpose than by equalizing their status with that of their married counterparts.

WHEREFORE, the Commission hereby resolves to **GRANT** the appeal of Dr. Amie M. Mendoza for entitlement to maternity leave benefits. Accordingly, the decision of the Civil Service Commission Regional Office No. III is SET ASIDE.

Quezon City, JUL 03 2002

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

FPG/RTM/X1/Y22/rco(fuji8)
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