

Case of XYZ Company

Situation faced By Company

- The employee who has joined the company for less than 80 days and has not been performing well since she joined.
- During this period she is found pregnant and who is still on probation period.
- Management is not happy with her performance and had asked human resource manager to **retrench her on the basis of her performance.**
- Please suggest the HR manager how he/she will going to deal with this situation?

KEY WORD

Probation -Probation is the duration (usually 3 - 6 months) for an employee for which he will remain under supervision of the company for his performance and work culture. In this duration if his performance is not as expected and promising, the company may not approve his contract for further processing and he maybe asked to leave the organization (the worst scenario).

Maternity – The period during pregnancy and shortly after childbirth.

Question

- Keeping in mind the current situation what would be your action if you are the Hr manager of the XYZ company?
- In your opinion company should keep her or terminate her justify your answer?
- Does policies of company need some changes, justify?
- According to maternity act she is not eligible for maternity leaves what will you do in this case?

What Law Say's

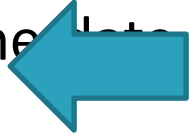


THE MATERNITY BENEFIT ACT, 1961-

- The Act was enacted to have uniform maternity benefit provisions for all women employees.
- Extent- This act extended to whole of India.
- Object: (1) to provide for maternity benefit to women employees; and (2) to regulate the employment of women for certain periods before and after childbirth.

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Maximum period a woman is entitled to maternity benefit shall be 12 weeks of which up to 6 weeks shall be before the date of her expected delivery.

- If the woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death.
- A woman shall not be entitled to MB unless she has actually worked in the establishment for a period of not less than 80 days in the 12 months immediately preceding the  date of her expected date of delivery

Penalty for contravention by the employer

- Employer who fails to pay MB, or discharges or dismisses a woman during her maternity leave, he shall be punishable with imprisonment of minimum 3 months, maximum up to one year, and fine of not less than Rs. 2000/- but maximum up to Rs. 5000/-. If there are sufficient reasons, the court may impose a sentence of lesser term or fine only in lieu of imprisonment.
- Any other contravention – imprisonment up to one year; fine up to Rs. 5000/- or both.