

Civil Service Conciliation and Arbitration Scheme

General Council Report 1267

(Meeting/s of 27 January 1993, 31 March 1993, 27 April 1994)

Claim that where a woman who is due to be promoted is on Maternity Leave, paid or unpaid, that her promotion should be effective from the date she should have been promoted rather than on the date she returns from Maternity Leave.

1. At the General Council meeting of 27 January 1993, the Staff Side presented a claim that where a woman who is due to be promoted is on maternity leave, paid or unpaid, that her promotion should be effective from the date she should have been promoted rather than on the date she returns from maternity leave.
2. The claim was discussed at General Council on 31 March 1993. The Official Side stated that, in accordance with the Maternity Protection of Employees Acts, 1981 and 1991, women on maternity leave should be treated for all purposes (including promotion) as though they were not so absent and that they understood that this was the practice in Departments. However, the Official Side said that the legislation made a clear distinction between paid and unpaid maternity leave.
3. The Staff Side said that the treatment for promotion purposes of women on maternity leave varied between Departments. The Staff Side disagreed that there should be a difference in treatment between women on paid and unpaid maternity leave. The matter was referred to the Equality Sub-committee.
4. Following extensive discussions at Sub-Committee, it was agreed that the Official Side would write to Departments to clarify the position. A minute to all Personnel Officers duly issued on 4 November 1993. A copy of that minute is attached as an Appendix to this Report. The Staff Side, however, wished to record their reservations in relation to the position of women on unpaid maternity leave.
5. It was agreed that a report recording agreement on the claim be prepared.
6. This report, recording agreement, was adopted on 27 April 1994.

Appendix to General Council Report No. 1267

E109/27/81

4 November 1993

**TO/
ALL PERSONNEL OFFICERS**

re: MATERNITY LEAVE

Dear Personnel Officer

I am directed by the Minister for Finance to refer to the provisions of the Maternity Protection of Employees Acts, 1981 and 1991.

Following discussion in the General Council Sub-Committee on Equality of Opportunity, I am to remind you that, under the provisions of that Act, during a period of absence on maternity leave (ie up to fourteen weeks), an employee is to be treated as if she had not been so absent - Section 15 (1) refers. Therefore, officers should continue to be considered for promotion in the usual way while on maternity leave. If selected for promotion, the timing of their appointment in the new grade should not be affected by the fact that they are on maternity leave.

It is not usual to consider for promotion an officer who is on special leave without pay. However, given that the optional unpaid leave following the fourteen weeks maternity leave is limited to a maximum of four weeks and given the statutory nature of the leave, as a matter of good practice officers on such leave should be considered for promotion in the usual way. If selected for promotion, the timing of the appointment in the new grade should not be earlier than the date of the officer's return to duty. In those circumstances an officer could, if she wished, return to duty before the expiry of her special leave without pay.

I would also like to take this opportunity to clarify the position in relation to public holidays which fall during a period of maternity leave. If any public holidays or privilege days occur during an officer's period of maternity leave, she should be given credit for those days at the end of her maternity leave. No credit is given for any public holidays or privilege days which occur while an officer is on the optional four weeks special leave without pay following maternity leave.

If you have any query on this or on any other aspect of the application of the Maternity Protection of Employees Acts, 1981 and 1991, I will be pleased to assist.

Yours sincerely

Cloda Ryan
Assistant Principal

This report was adopted on 27 April 1994