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W.P.No.28293 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.12.2022

Coram

The HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.No.28293 of 2022

Khatija Umama

.. Petitioner

Vs

1.The District Educational Officer,
Erode District.

2.The Head Master,
Government Model Higher Secondary School,
Erode, Erode District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to grant maternity leave of one year for the delivery of her third child by considering the representation of the petitioner dated 27.06.2022 with full pay and attendant benefits.

For Petitioner : Mr.Eswar Kumar

For Respondents : Mr.E.Sundaram,
Govt. Advocate



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ORDER

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This writ petition has been filed for a mandamus seeking for a direction to the respondents to grant maternity leave of one year for the delivery of the petitioner's third child based on the petitioner's representation dated 27.06.2022 within a time frame to be fixed by this Court.

2. The case of the petitioner is that she joined public service as a Teacher after giving birth to two children. According to her, for the first time, when she was expecting the third child, she had requested the respondents to grant her maternity leave for a period of one year. The third child was also born subsequently but till date, her maternity leave has not been sanctioned by the respondents. According to the petitioner, she is entitled to get maternity leave even if she is having three children in view of the fact that only after birth of two children, she had joined public service. The petitioner gave a representation to the respondents on 27.06.2022. Since the said representation has not been considered favourably, the petitioner has filed this writ petition.



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3. Learned Government Advocate appearing for the respondents has placed before this Court a Government Order dated 23.08.2021 issued by the Human Resources Management (FR-III) Department in G.O.Ms.No.84 and would submit that for the third child, the petitioner cannot be granted maternity leave. However, as seen from the Government Order dated 23.08.2021 referred to supra, on a prima facie consideration, this Court is of the considered view that it does not deal with the situation where the applicant had joined public service only after the birth of two children and she is seeking maternity leave for the first time after she has secured public employment. Therefore, this Court is of the considered view that no prejudice would be caused to the respondents if the petitioner's representation referred to supra seeking for maternity leave in respect of her third child is considered on merits and in accordance with law within a time frame to be fixed by this court.

4. For the foregoing reasons, this Court directs the first respondent to pass final orders on merits and in accordance with law on the petitioner's representation dated 27.06.2022 seeking maternity leave for a period of one year from 07.07.2022 after giving due consideration to the fact that the petitioner is seeking maternity leave



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for the first time, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the aforesaid direction, the writ petition stands disposed of. No costs.

06.12.2022

Index:Yes/No
mmi

To

- 1.The District Educational Officer,
Erode District.
- 2.The Head Master,
Government Model Higher Secondary School,
Erode, Erode District.



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ABDUL QUDDHOSE,J.

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