



W.P.(MD).No.20234 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20234 of 2024

V.Padmavathy

... Petitioner

Vs.

1. The Additional Director General of Police,
State Crime Records Bureau,
R.A.Puram,
Chennai – 600 028.

2. The Superintendent of Police,
Madurai District,
Madurai- 625 007.

3. The Principal Secretary to Government,
Home Department,
Secretariat,
Chennai -09.

... Respondents

(R3 is *suo motu* impleaded vide order
of this Court dated 20.09.2024 in
W.P(MD) No.20234 of 2024)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the respondents i.e.
the Superintendent of Police, Madurai District and the Additional Director
General of police, State Crime Records Bureau, Chennai to declare the



W.P.(MD).No.20234 of 2024

petitioner's probation counting the medical leave for 26 days from 03.04.2021 to 28.04.2021 and maternity leave from 29.04.2021 to 28.04.2022 i.e., 365 days as per Section 12 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and Rule 9 of the Tamil Nadu Police Subordinate Service Rules, within a specified time frame, that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The instant Writ Petition has been filed by a Women Sub-Inspector of Police working in the Single Digit Fingerprint Bureau, Madurai, seeking a Mandamus, directing the respondents to declare the petitioner's probation counting the medical leave for 26 days from 03.04.2021 to 28.04.2021 and maternity leave from 29.04.2021 to 28.04.2022 i.e., 365 days as duty period and declare probation.

2. The petitioner herein was appointed as Sub- Inspector of Police on 03.03.2019. The petitioner has taken earned leave on medical grounds between 03.04.2021 and 14.05.2021. Thereafter, the petitioner has availed 349 days of Maternity Leave between 15.05.2021 and 28.04.2022.



W.P.(MD).No.20234 of 2024

WEB COPY

3. According to the learned counsel appearing for the writ petitioner, the earned leave on medical grounds and maternity leave were availed by the petitioner only due to the fact that she was on the family way.

4. The learned counsel appearing for the writ petitioner relied upon the Tamil Nadu Police Subordinate Service Rules Special Unit of 16(A) had contended that a member of police service should have completed two years and six months on duty within a continuous period of three years and six months for declaration of probation. However, due to the fact that the petitioner, has availed earned leave on medical grounds and maternity leave on the fact that she was on the family way, the probation has not been declared on completion of 2 ½ years from the date of appointment, namely, 03.03.2019. Seeking the said benefits, the petitioner has sent a representation on 10.07.2023, to the respondents for declaration of probation on completion of two years and six months from 03.03.2019. Since, there is no response, the present writ petition has been filed.



W.P.(MD).No.20234 of 2024

WEB COPY

5. The learned Special Government Pleader appearing for the respondents, on instructions, submitted that some of the other Women Sub Inspector of Police, who have availed maternity leave and earned leave on medical grounds, have been referred by the Director General of Police for relaxation to the Government for declaration of probation and accordingly relaxation has been granted to those candidates. He further contended that in the light of Sections 31, 32 and 33 of the Tamil Nadu Government Servants (Conditions of Service) Act, the request of the petitioner may be considered by the Government. The learned Special Government Pleader also brought to the notice of this Court that the Director General of Police has already addressed a communication to the Principal Secretary to Government, Home Department, Secretariat, Chennai -9, dated 28.06.2023, seeking necessary clarification whether the appointing authority may extend the probation period up to the period of five years in respect of individual, who availed Maternity and other leaves and not completed probation period within a prescribed years or commenced the probation period afresh.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



W.P.(MD).No.20234 of 2024

WEB COPY

7. It is not in dispute that the petitioner had availed earned leave on medical grounds for a period of 42 days between 03.04.2021 and 14.05.2021 and maternity leave for a period of 349 days between 15.05.2021 and 28.04.2022. These leave periods have also been sanctioned by the concerned authorities. Now, the only issue that arises for consideration is whether the leave availed by the writ petitioner while she was on the family way, have to be construed to be duty period for declaration of probation for completion of 2 ½ years from the date of appointment, namely, 03.03.2019 or not.

8. The Government of Tamil Nadu by way of G.O(Ms) No.105, Personnel and Administrative Reforms (FR.III) Department, dated 07.11.2016, has extended the maternity leave from 180 days to 270 days. This Government order was incorporated by way of amendment in Fundamental Rules also. Thereafter, by way of G.O(Ms) No. 84, Human Resources Management (FR-III) Department, dated 23.08.2021, the Government of Tamil Nadu has enhanced the maternity leave from 270 days to 365 days. A perusal of the Government Order reveals that the said Government Order would come into effect from 01.07.2021. A perusal of the above said



W.P.(MD).No.20234 of 2024

WEB COPY

Government Order further reveals that availing of maternity leave has not been restricted to those whose probation has already been declared.

9. As per Sections 31, 32 and 33 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the appointing authority is empowered to extend the period of probation also. In the present case, the petitioner having availed maternity leave, the question of extending the probation beyond a period of 2 ½ years would not be sustainable. Considering the fact that the period of maternity leave availed by the petitioner has to be treated as a duty period by the Government only after relaxation of the Rules. In the present case, the Director General of Police has already addressed a communication to the Principal Secretary to Government, Home Department to consider the extension of period of probation or to relax the said condition, considering the fact that the petitioner has availed maternity leave.

10. In such circumstances, the third respondent herein is directed to consider the proposal forwarded by the Director General of Police on 28.06.2023, in the light of the provisions under the Tamil Nadu Servants



W.P.(MD).No.20234 of 2024

WEB COPY

(Conditions of Service) Act, 2016, and the Government Orders cited above and also the benefits conferred upon the similarly placed person and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above said observation, this Writ Petition stands allowed.

There shall be no order as to costs.

20.09.2024
2/2

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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W.P.(MD).No.20234 of 2024

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W.P(MD)No.20234 of 2024

20.09.2024

2/2