



W.P.No.8166 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8166 of 2025

And

W.M.P.Nos.9148 and 29532 of 2025

A.Rubavathi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of School Education,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
Directorate of School Education,
DPI Complex, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
O/o.Chief Educational Office,
Kallakurichi District.
- 4.The District Educational Officer,
O/o.District Educational Office,
Kallakurichi District.
- 5.The Head Master,
Government Girls High School,
Devapandalam,
Sangarapuram Taluk,
Kallakurichi District.

... Respondents



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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to sanction Maternity Leave to the petitioner by considering her representation dated 17.02.2025.

For Petitioner : Mr.K.Jeyamohan
For Respondents : Mrs.Mythreye Chandru for R1 to R4
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of Writ of Mandamus directing the respondents to sanction maternity leave to the petitioner by considering her representation dated 17.02.2025.

2.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as Post Graduate Assistant (Chemistry) on 01.09.2022 and allotted to Government Higher Secondary School, Pudhupattu, Sangarapuram, Kallakurichi District and was transferred to the fifth respondent School on 24.07.2024. The petitioner gave birth to third child on 26.02.2025 at Salem Poly Clinic and prior to the child birth on 17.02.2025, the petitioner gave



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representation to the respondents seeking to sanction maternity leave, however, no orders were passed.

3.The learned counsel appearing for the petitioner further submitted that this Court considered similar issue in the case of ***Malathi.G Vs. The Director of School Education, Directorate of School Education, Chennai and others*** in ***W.P.No.47991 of 2025*** dated ***17.12.2025*** and, by following the decision of the Hon'ble Apex Court reported in ***2025 SCC online SC 1204 [Umadevi Vs. Government of Tamil Nadu and others]*** which was followed by this Court while granting interim order in the case of ***T.R.Lakshmi Vs. The Secretary to Government, Human Resources Management Department, Secretariat, Chennai – 9 and others*** in ***W.P.No.43598 of 2025*** dated ***17.11.2025***, granted maternity leave to the petitioner therein subject to the result of W.P.No.43598 of 2025.

4.The learned counsel appearing for the petitioner further submitted that during the pendency of this writ petition, the petitioner due to health condition, obtained earned leave. Hence, this Court may without going into the merits of the case, issue direction to the



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respondents to treat the earned leave obtained by the petitioner as maternity leave subject to the result of the writ petition in W.P.No.43598 of 2025.

5.It is useful to extract hereunder the relevant portion of the order of this Court in the case of **Malathi.G Vs. The Director of School Education, Directorate of School Education, Chennai and others** in **W.P.No.47991 of 2025** dated **17.12.2025**:

*"3. The issue as to whether a Government Servant would be entitled for maternity leave for the birth of third child is no more res integra, in view of the judgment of the Hon'ble Division Bench of this Court in W.P.No.33539 of 2025 dated 04.09.2025 in the case of **B.Ranjitha Vs. the Registrar General, High court of Madras, Chennai and others** following the decision of the Hon'ble Supreme Court in the case of **Umadevi Vs. Government of Tamil Nadu and others reported in 2025 SCC online SC 1204** and the relevant paragraphs are extracted hereunder:-*

"33.2. Thereafter, the matter travelled to this Court. This Court referred to Rule 43 of the 1972 Rules which deals with maternity leave. As per Rule 43(1), only a female Government servant with less than two surviving children may be granted maternity leave. This Court opined that



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provisions of Rule 43(1) must be imbued with a purposive construction. Since it is a beneficial legislation, it has to be construed with a purpose oriented approach and must receive a liberal construction to promote its objects. The courts must bridge the gap between law and society through the use of purposive interpretation. Though this Court acknowledged that the Maternity Benefit Act has no application to PGIMER as an establishment, yet for the purpose of adopting an approach which furthers legislative policy, referred to the provisions of the Maternity Benefit Act to derive some guidance therefrom. After an exhaustive analysis of Section 5 of the Maternity Benefit Act, this Court observed that the said Act was enacted to secure women's right to maternity leave and to afford women with as much flexibility as possible to live an autonomous life, both as a mother and as a worker. Thereafter, this Court referred to the various international treaties and conventions.

33.3. *In the facts of that case, this Court observed that spouse of the appellant had a prior marriage which had ended as a result of the death of his wife after which the appellant married him. However, what is relevant and important is the following declaration of this Court:*



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24.The fact that the appellant's spouse had two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child.....

33.4. Thus, this Court was categorical in declaring that the factum of appellant's spouse having two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child. Grant of child care leave to the appellant for the two children of her spouse from his previous marriage cannot be used to disentitle her to maternity leave under Rule 43 of the 1972 Rules. In the context of employment, child birth has to be construed as a natural incident of life and, hence, provisions for maternity leave must be construed in that perspective. Observing that when courts are confronted with such situations, they would do well to attempt to give effect to the purpose of the law in question rather than to prevent its application.

34. Insofar the present case is concerned it is true that appellant has two biological children out of her first wedlock. But that was before entry into her service. Post entry into service and from her subsisting



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marriage, this is her first child. It has come on record that the two children out of her first wedlock are not residing with her but with their father, who is having their custody.

35. *Policy of the State to arrest population growth by resorting to various population control measures is certainly a laudable objective. So is the objective of granting maternity benefit to women employees. The object of having two child norm as part of the measures to control population growth in the country and the object of providing maternity benefit to women employees including maternity leave in circumstances such as in the present case are not mutually exclusive. The two must be harmonized in a purposive and rationale manner to achieve the social objective. "*

(Emphasis supplied)

*4. Following the said judgment, this Court in the case of **T.R.Lakshmi vs. the Secretary to Government, Human Resources Management Department, Secretariat, Chennai-9 and others in W.P.No.43598 of 2025 dated 17.11.2025**, has passed an interim order granting the petitioner maternity leave for the birth of third child. The operative portion of the order is extracted*



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hereunder:

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"There shall be a direction to the respondents to permit the petitioner to avail the Maternity Leave as applicable to other pregnant women in case of their first or second pregnancy with all other service benefits arising out of maternity leave for which the petitioner would be entitled to.

(ii) The validity of proviso to Rule 101 (a) of the Tamil Nadu Fundamental Rules would be decided later on in the final hearing of the writ petition."

5. In the present case, it is borne out by record that before entering into the services of the State, the petitioner was having two children and the third child is the first child upon entering into service. By virtue of the decision of this Court in Ranjitha & Lakshmi Case (Supra) the petitioner would be entitled to the maternity benefit for the third child, which cannot be curtailed by the respondents on the mere ground that before entering into service, the petitioner already has two children. Therefore, applying the ratio laid down in Ranjitha & Lakshmi Case (Supra), irrespective of the fact that it is the third child of the petitioner. However, the said view of this Court, which



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is on the basis of the decision in Ranjitha & Lakshmi Case (Supra) would be subject to the result of Lakshmi case (Supra)."

6.In the present case, it is borne out by record that before entering into the services of the State, the petitioner was having two children and the third child is the first child upon entering into service. Hence, this Court, by following the decisions cited supra, directs the respondents to treat the earned leave obtained by the petitioner as maternity leave and refund the amount, if any, recovered from the petitioner in this regard, subject to the result of the writ petition in W.P.No.43598 of 2025.

7.The writ petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

19.12.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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To

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Department of School Education,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
Directorate of School Education,
DPI Complex, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
O/o.Chief Educational Office,
Kallakurichi District.
- 4.The District Educational Officer,
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- 5.The Head Master,
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