



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 17939 of 2025

Dr. P. Suganya

Petitioner(s)

Vs

1.The Commissioner

Tamil Nadu Animal Husbandry Veterinary Services,
Nandanam,
Chennai-600 035

2.The Assistant Director,

Tamil Nadu Animal Husbandry Veterinary Services,
Nakkasalem,
Perambalur -621 212.

3.The Zonal Director,

Tamil Nadu Animal Husbandry Veterinary Services,
Nakkasalem, Perambalur -621 212.

Respondent(s)

PRAYER

Directing the respondents grant the Petitioner herein with maternity leave



benefits for her third pregnancy as the said benefit being availed by the Petitioner for the first time in her service and consequently direct the respondents to adjust the period of leave already taken by the petitioner as against the maternity leave.

For Petitioner(s): Mr.M.Santhanaraman

For Respondent(s): Mr.R.U.Dinesh Raj Kumar
A.G.P., For R1 To R3

ORDER

The writ petition has been filed to direct the respondents to grant the petitioner maternity leave benefits for her third pregnancy, as she avails this benefit for the first time after joining her service, and a consequential direction to the respondents to adjust the period of leave already taken by the petitioner against the maternity leave.

2. The learned counsel for the petitioner would submit that the petitioner has been working as a Veterinary Assistant Surgeon in Tamil Nadu Animal Husbandry Service since February 02, 2021. After joining service, she gave birth to her third child on 24.06.2024 and applied for the maternity leave, which



was not considered by the respondent on the sole ground that she has two children and this being her third delivery. However, the learned counsel for the petitioner vehemently submitted that although this is a third delivery, it becomes her first delivery after joining service, and would contend that she is entitled for maternity leave, as her two elder children were born in 2014 and 2016, prior to joining the service. In support of this contention, the learned counsel relied upon the order of this Court in the case of ***C.Kohila vs. The Additional Chief Secretary, Health and Family Welfare Department*** in W.P.(MD) No.23455 of 2024 dated 21.01.2025.

3. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would strongly object the contentions of the petitioner and contends that according to the Government Service Rules, the employees are entitled leave for only two deliveries, whereas, in the instant case, the petitioner is seeking maternity leave for her third delivery, which is in contravention to the Rule 101 of the Fundamental Rules.



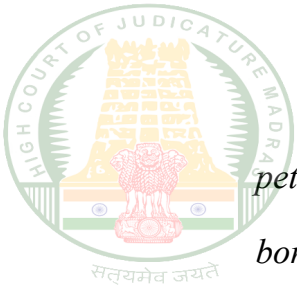
4. I have given my careful consideration to the submissions made by both sides.

5. Now the main issue to be determined is, whether the petitioner is entitled to maternity leave for her first delivery after joining the service, despite having two children prior to joining service.

6. In this case, the petitioner had two children prior to joining service, qua in 2014 and 2016, and this is her third delivery. However, the petitioner's counsel argues that although this is her third delivery overall, it is her first delivery after joining the service, and therefore she is entitled to maternity leave benefits and having relied on **C.Kohila's** case (cited supra).

7. In this regard, it is appropriate to record the paragraph 13 of the **C.Kohila's** case (cited supra).

“13.In the light of the above said proposition, the intention of the legislature has to be understood and applied. In the present case, the



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petitioner has not availed any maternity leave for her first two children born through the first wedlock. For the first time, the petitioner is availing the maternity leave for her child born through the second wedlock. In such circumstances, the right of a woman employee to have a child through her second wedlock cannot be curtailed invoking the Maternity Leave Rules. That apart, when they are going to extend the maternity leave to the petitioner for the first time, the State exchequer is not put to any strain. The Rule has to be interpreted in such a manner that a woman Government employee would be entitled to seek maternity leave only twice during her service period and it cannot be interpreted in such a manner that the State would be entitled to deny the maternity leave, even if it is claimed for the first time, citing third pregnancy. In such circumstances, the order of the fifth respondent dated 30.08.2024 rejecting the request of the petitioner for maternity leave for her third child is not legally sustainable and the same is liable to be set aside.”

Though this case factually differs slightly, the ratio regarding the interpretation of the rule squarely applies to this case.

8. According to the above-cited case, a Government employee can avail maternity benefits twice during their service. Since the rule regarding maternity



leave is a beneficial legislation, needs liberal interpretation to achieve its object.

At this juncture, this Court must also keep in mind the declining reproductive rate. According to the above rule, as interpreted in the cited case, is squarely applicable to the case in hand.

9. Recently, in line with the above judgment, the Hon'ble Supreme Court of India in the case of ***K.Umadevi vs. Government of Tamil Nadu and Others***¹, has authoritatively held that it is not just motherhood, but also childhood that requires special attention. The Court further held that the well-being of both the child and the mother must be considered while granting maternity leave. The key legal principles laid down therein are as follows:

“19. A careful perusal of the above provision would reveal that grant of maternity benefit is per se not denied to a woman employee having more than two children. Following amendment in the year 2017, a restriction has been introduced in Section 5 by inserting a proviso under sub-section (3) as to the entitlement of the period of maternity leave. A woman employee having less than two surviving children is entitled to a maximum period of benefit i.e. 26 weeks and for a woman

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employee having two or more than two surviving children, the benefit is restricted to 12 weeks. Thus, there is no ceiling or cap on the number of children to claim maternity benefit. Only thing is that in case of a woman employee having two or more than two surviving children seeking maternity leave, period of the benefit is reduced : from a maximum period of 26 weeks to a maximum of 12 weeks.

.....

33.4..... 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.

.....

35. 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.”



10. Accordingly, this Court is of the indubitable opinion that the petitioner's request for maternity leave for her first delivery after joining the service, though it is her third delivery altogether, is in accordance with the Rule.

11. Therefore, the petitioner is entitled to maternity leave as prayed for. Hence, the respondents are directed to adjust the period of leave already taken for her third delivery, as against her maternity leave within a period of four (4) weeks from the date of receipt of a copy of this order.

12. With the above directions, the Writ Petition stands allowed. No costs.

05-06-2025

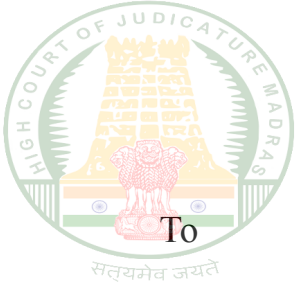
Index: Yes/No

Speaking/Non-speaking order

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