



W.P.No.17847 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2025

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.17847 of 2025

Giruba C.V.Chevalsan

...Petitioner

Vs.

State Rep.by
The Commissioner,
Directorate of Technical Education,
No.53, Sardar Patel Road,
Anna University, Guindy,
Chennai – 600 025.

... Respondents

PRAYER: The writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondent to consider the representation dated 19.02.2025 and consequently, directing the respondent to grant a maternity leave.

For Petitioner

... Mr.R.Karthik
for M/s.R.K.Law Firm

For Respondent

... Mr.C.Jayaprakash
Government Advocate



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ORDER

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Though the petitioner seeks only for a limited prayer to dispose of the representation, Mr.C.Jayaprakash, learned Government Advocate has produced written instruction stating that the petitioner is not entitled to medical leave on account of maternity as she has delivered a third child. This shows that even if I have to give a direction to dispose of a representation, it is going to meet only with an order of rejection. Hence, I heard the claim of the writ petitioner on merits.

2. The petitioner is working as a lecturer in the Department of Basic Engineering at Dr.Dharmambal Government Polytechnic College for women, Tharamani, Chennai from 2022. She delivered a child on 03.12.2024. She pleads that the child is being fed with formula milk, keeps falling sick regularly with allergic skin condition. She sought for maternity leave by way of a representation dated 14.02.2025. Though it had been forwarded to the Directorate of Technical Education, it had not been processed. Hence, she has come forward with the present writ petition.



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3. The instructions that have been given to the learned Government

Advocate states that the Government would grant medical leave for women only for her first two children and not for the third child. Since there is no dispute that the petitioner is the mother for three children, the learned Government Advocate, on instructions, states that the mother is not entitled for medical leave.

4. In response, the learned counsel for the petitioner points out that for the first two children, the petitioner did not avail any maternity leave as she was not even in government service during the relevant point of time. He relied upon the judgment of the Madurai Bench of this Court ***dated 21.01.2025 in W.P.(MD).No.23455 of 2024 (C.Kohila Vs. The Additional Chief Secretary Health and Family Welfare Department Secretariat and four others).***

5. I carefully considered the submission of both sides and I have gone through the materials available on record.



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6. It is not in dispute that Government Servant who has availed maternity leave for two children is not entitled for maternity leave for the third time. The Rule as interpreted by Justice R.Vijayakumar in C.Kohila's case points out the purpose of the Rule was to discourage the increase in population. When a government servant avails maternity leave, she is granted the same with pay. Therefore, the government is entitled to impose conditions as to what are the category of government servants entitled to avail this benefit. It shows that if a government servant has availed the benefit twice earlier, she is not entitled for the same benefits if she becomes pregnant for the 3rd or successive time. This does not mean that a government servant who had brought forth 2 children earlier when she was not a government servant is not entitled for maternity leave if she becomes pregnant and delivers a child for the 1st time after she joins government service.

7. The facts of the present case, the petitioner had not availed maternity leave at all nor could she had availed the leave for the first two



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children as she was never in service. A pedantic approach of the Rule, does not pass muster.

8. I am of the view that the child, born to the petitioner for the third time, being the first one after she had joined the Government service, it has to be treated as a first child born to the Government Servant. Hence, she will be entitled to medical leave.

9. Accordingly, the writ petition is ordered. There shall be a direction to the respondent to confer the eligible medical leave for the writ petitioner on the basis of her representation dated 14.02.2025. No costs.

15.05.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No
sms/mrp



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V.LAKSHMINARAYANAN,J.

sms/mrp

To:

The Commissioner,
Directorate of Technical Education,
No.53, Sardar Patel Road,
Anna University, Guindy,
Chennai – 600 025.

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