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W.P.No.26834 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.26834 of 2025

And

W.M.P.No.30165 of 2025

T.K.Loganayaki

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment, Climate Change and Forest Department,
Fort St.George,
Chennai – 9.

2.The Principal Chief Conservator of Forest &
Head of Forest Force,
Forest Head Quarters,
Velachery Main Road,
Guindy,
Chennai – 32.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to Na.Ka.No.M1/19998/2024 dated 09.05.2025 of the second respondent and to quash the same with consequential direction to the respondents to sanction the maternity leave for a period of one year with full pay and all attendants benefits within time frame fixed by this Hon'ble Court.



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For Petitioner : Mr.K.Jenitha
For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

The instant writ petition has been filed challenging the order dated 09.05.2025 by and in which the petitioner's request for maternity leave was rejected on the sole ground that she has got two surviving children at the time of her third birth.

2.The learned counsel appearing for the petitioner would submit that the petitioner joined in the service of the respondent Department on 26.11.2018, and before joining service, she married with one Deepansakkaravarthi Subbiah and he died on 05.12.2014 at Sultanate of Oman. Thereafter, she married one Azarudeen on 28.08.2023. Through this second wedlock, the child to which she sought Maternity Leave is the first baby. The learned counsel would further submit that though the petitioner has got two children out of her first wedlock, the birth of those children happened prior to her joining the service and through her first husband who is now no more. The birth of the petitioner's third child is through her second husband and such marriage took place after she joined the service. The learned counsel



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relied upon the judgment of the Hon'ble Supreme Court reported in

2025 INSC 781 [K.Umadevi Vs. Government of Tamil Nadu].

3.The learned Additional Government Pleader would strongly object the above submission and would rely upon W.P.(MD) No.4898 of 2022 [A.Deepalakshmi Vs. Government of Tamil Nadu] and W.P.(MD) No.57 of 2023 [T.AnuAbirami Vs. Government of Tamil Nadu] by and in which, the learned Additional Government Pleader would submit that for third child, Government employees are not entitled to maternity leave in view of Rule 101(a) of the Tamil Nadu Fundamental Rules.

4.I have given my anxious consideration to either side submissions.

5.The following facts are not in serious dispute:

(i)The petitioner joined service during 2018. On the date of joining, she was a widow.

(ii)The second marriage took place during 2023.

(iii)Through her first marriage, the petitioner has got two children.



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6.It is admitted fact that the third child of the petitioner which begotten after joining service was her first child through her second husband. In this connection, this Court deems it appropriate to refer the judgment of the Hon'ble Supreme Court reported in **2025 INSC 781 [K.Umadevi Vs. Government of Tamil Nadu]**, where the factual position is narrated in paragraph 4. For ready reference, the same is extracted hereunder:

"4. Appellant married A. Suresh in the year 2006. From the said wedlock, two children were born: first one in 2007 and the second one in 2011. She entered government service in December, 2012 as English Teacher in Government Higher Secondary School, P. Gollapatti, Dharmapuri District in the State of Tamil Nadu. Marriage between the two was dissolved in the year 2017. It is stated that the two children born out of the said wedlock are in the custody of the former husband.

4.1. On 12.09.2018, appellant married M. Rajkumar. Due to conception from her second marriage, appellant applied for grant of maternity leave to the authorities for the period from 17.08.2021 to 13.05.2022 (nine



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months) which was inclusive of both pre-and-post-natal periods.

4.2. The third respondent vide order dated 28.08.2021 rejected the prayer of the appellant. It was stated that as per Fundamental Rule (FR) 101(a) which is applicable to state government employees of Tamil Nadu, maternity leave is available to women state government employees having less than two surviving children. There is no provision for grant of maternity leave for the third child on account of appellant's re-marriage.

4.3. Aggrieved by rejection of her request for grant of maternity leave, appellant preferred a writ petition before the High Court which was registered as W.P. No. 22075 of 2021. A learned Single Judge of the High Court vide the judgment and order dated 25.03.2022 held that appellant was entitled to grant of maternity benefit. Therefore, rejection of her claim for grant of such benefit was illegal. As such, order dated 28.08.2021 was set aside. Respondents were directed to sanction maternity leave to the appellant as admissible in terms of the latest G.O.Ms. No. 84 of the



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Personnel and Administrative Reforms (FR-III) Department dated 23.08.2021. Consequential decision was directed to be taken within a period of two weeks from the date of receipt of a copy of [the said judgment](#). Writ petition was accordingly allowed.

4.4. Government of Tamil Nadu and its officers filed intra- court appeal being W.A. No. 1442 of 2022. A Division Bench of the High Court vide the impugned judgment and order dated 14.09.2022 found the judgment of the learned Single Judge to be unsustainable. Division Bench held that the appellant was not entitled to maternity relief as claimed by her. Accordingly, the judgment and order of the learned Single Judge dated 25.03.2022 has been set aside. Consequently, the writ appeal has been allowed.”

7.After considering various aspects of above factual position, the Hon'ble Supreme Court in paragraphs 34 and 35 has observed and laid down ratio as follows:

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



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entry into her service. Post entry into service and from her subsisting 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."

8.From the above ratio, it is lucid that even if an employee have two biological children out of her first wedlock, if the employee have third child through the second subsisting marriage, that too after joining the service, then the employee is entitled for maternity leave.



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9.In view of the aforesaid ratio, this Court finds infirmity in the impugned order dated 09.05.2025 and the same is quashed. The respondents are directed to pass consequential order by sanctioning the eligible maternity leave, within a period of eight weeks from the date of receipt of a copy of this order.

10.In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.08.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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