



WEB COPY



WP No. 27231 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2025

CORAM

THE HONOURABLE MR.JUSTICE **C.KUMARAPPAN**

WP No. 27231 of 2025

1. Dr.R.Nivetha
W/o. Aravinth, 2/300 West Street,
Chettikulam, Alathur Taluk,
Perambalur-621104

Petitioner(s)

Vs

1. State Of Tamil Nadu
Rep. By Its Secretary, Health And
Family Welfare Department Fort. St.
George, Chennai-600 009

2.The Director Of Medical Education,
Kilpauk, Chennai-600 010

3.The Director Of Medical And Rural
Health Service,
Anna Salai, Chennai

4.The Directorate Of Public Health
And Preventive Medicine,
Anna Salai, Teynampet,
Chennai-600 086

5.The Dean
Tirunelveli Medical College,
Tirunelveli-627011

6.The Dean
Government Villupuram Medical
College, Mundiampakkam,
Villupuram-605 601

Respondent(s)



WP No. 27231 of 2025

PRAYER

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to treat the Petitioner's two year compulsory bond period as completed and to consequently issue to relieving order and to forthwith return the original certificates of the Petitioner that were submitted by her at the time of her admission to course of Master of Surgery (M.S.) Obstetrics and Gynaecology in the 5th Respondent College.

For Petitioner(s): Mr.C.Vidhusan

For Respondent(s): M/s.K.Tippu Sulthan
GA for respondents

ORDER

These writ petitions have been filed seeking direction to the respondents to treat the Petitioners' two year compulsory bond period as completed and to consequently issue to relieving order and to forthwith return the original certificates of the Petitioners that were submitted by them at the time of her admission to course of Master of Surgery (M.S.) Obstetrics and Gynaecology in the 5th Respondent College.

2. Heard Mr.C.Vidhusan, learned counsel for the petitioner and Mr.K.Tippu Sultan, learned Government Advocate, appearing for the respondents.

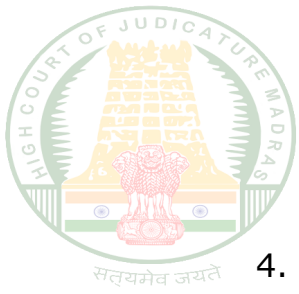
3. The learned counsel for the petitioner would submit that the petitioner got admitted in Master of Surgery (M.S) Obstetrics and



WP No. 27231 of 2025

Gynaecology in Thirunelveli Government Medical College through NEET PG

2018. When she joined in the Post Graduate degree, she executed a bond for a period of two years and that her Post Graduation course ended in May 2021, but no posting order was given to the petitioners until July, 2022. In the meanwhile, the petitioner rendered duty for Covid-19 between 01.06.2021 to 31.03.2022. It is the further submission of the petitioner that in pursuance of the posting order, she joined service on 18.07.2022 and at that time, the petitioner was four months pregnant. The learned counsel would submit that she continued the above posting and later availed maternity leave from 18.11.2022. It is the further contention of the petitioner that though she is entitled for 12 months of maternity leave, she approached the 2nd respondent in April 2023 and requested to resume duty. However, the same was not accorded on the ground of want of vacancy. The specific submission of the petitioner is that as per the Division Bench decision in **State of Tamil Nadu Vs. P.S.Sairam and others** reported in **2020 SCC OnLine Mad 2742**, the posting order must be coextensive with that of the two years bond period. It is also the further submission that the bond condition qua the two years period must give way to benefits under the Maternity Benefits Act, 1961. In support of his contention, the learned counsel relied upon the judgment of this Court in **E. Krithikaa (Dr.) v. State of T.N.**, reported in **2025 SCC OnLine Mad 3035**.

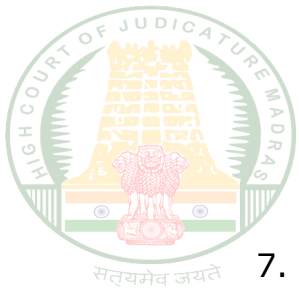


WP No. 27231 of 2025

4. The said contention was strongly objected by the learned Government Advocate and would submit that according to the bond condition, still the petitioner has to complete the remaining period of her bond service and that on mere serving of the 4 months bond period, the petitioner cannot claim for return of certificates. Hence, prayed to dismiss the writ petition.

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

6. It is well settled principle of law that the posting order is coextensive with that of the bond period. In this connection, it is appropriate to refer the Division Bench judgment in **P.S.Sairam's** case [cited supra]. In the case in hand, though the petitioner completed her Post Graduate degree in May 2021, she was served with the posting order only on 13.07.2022 viz., after 14 months. Therefore, as per the judgment of **P.S.Sairam's** case [cited supra], the remaining service to be performed by the petitioner is only 10 months. But, on the date of posting order, the petitioner was four months pregnant and entitled for the maternity benefits in accordance with the Maternity Benefit Act, 1961. However, it is the submission of the petitioner that even in spite of approaching the respondent in the month of April, immediately after delivery, within five months, the respondent did not give the posting order.

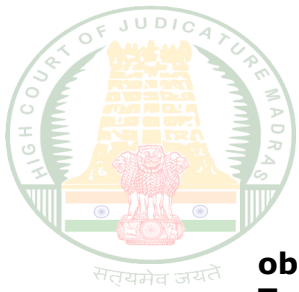


WP No. 27231 of 2025

7. The above facts are not in serious dispute. But, the only point urged by the learned Government Advocate is that the petitioner is not entitled to adjust the maternity leave with that of the bond service. But, the entitlement of maternity leave could not be denied citing the bond period and the same must be continued along with the bond period. This issue is no longer *res integra* in view of the recent Division Bench judgment in **E.Krithikaa (Dr)**'s case [cited supra]. For ready reference, this Court deems it appropriate to extract paragraph 7 to 9 of the above cited judgment:-

"7. The Hon'ble Supreme Court in *K. Uma Devi v. Government of Tamil Nadu*, (2025 SCC OnLine SC 1204) held that the concept of maternity leave is a matter of not just fair play and social justice but is also a constitutional guarantee to the women employees of this country towards fulfilment whereof the State is bound to act. In *Devika Biswas v. UOI*, (2016) 10 SCC 726, it was held that reproductive right is an aspect of personal liberty under Article 21 of the Constitution. In *Suchitha Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1, a three judges Bench of the Hon'ble Supreme Court held that the right of a woman to make reproductive choices is also a dimension of "personal liberty" as understood under Article 21 of the Constitution. In *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*, (2023) 9 SCC 433, it was held that the ambit of reproductive rights is not restricted to the right of women to have or not to have children and that it also includes the constellation of freedoms and entitlements that enable a woman to decide freely on all matters relating to her sexual and reproductive health.

8. As per the conditions set out in the prospectus, the appellant has to serve the Government of Tamil Nadu in one of their hospitals for a period of two years. **This condition has to give way to the rights conferred on the women under the provisions of the Maternity Benefit Act, 1961.** This is all the more so because the Hon'ble Supreme Court had declared that any woman has a fundamental right to the benefits arising out of her situation of maternity. Maternity leave is integral to maternity benefit and forms a facet of Article 21. **The appellant no doubt is not a government employee. She is only**



WP No. 27231 of 2025

WEB COPY

obliged to render bond service to the Government of Tamil Nadu for a period of two years. But a regular State government employee is entitled to avail maternity leave for twelve months as per the amended Service Rules. We are of the view that the appellant is also entitled to the very same treatment applicable to any government employee. The fact that the appellant was only in the service of the government without being a regular employee is irrelevant. When the fundamental right of the appellant is involved, she is entitled to the protective umbrella of not only Article 21 but also Article 14.

9. John Milton in "Paradise Lost" sang "They also serve who only stand and wait". The second half of the bond service turned out to be maternity period for the appellant. Applying the legal fiction laid down in *Kavita Yadav*, the appellant must be taken to have served the Government of Tamil Nadu even during her maternity period. In other words, the maternity period of twelve months has to be counted as part of the bond period."

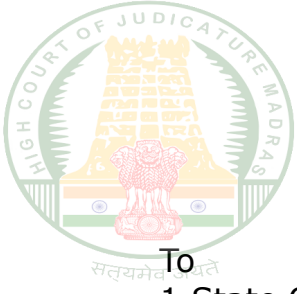
[Emphasis supplied by this Court]

8. In the case in hand, the remaining service to be done by the petitioner is 10 months. But, during the relevant time, admittedly the petitioner is entitled for maternity leave of 12 months. Therefore, if we count the maternity leave period within the bond period, the petitioner's bond service become completed. Therefore, this Court is of the firm view that the petitioner is entitled for return of original certificates.

9. In the result, this writ petition stands allowed and the respondents are directed to return the original certificates of the petitioner within a period of two(2) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

**31-07-2025
(1/2)**

Kmi



WP No. 27231 of 2025

To

1.State Of Tamil Nadu
Rep. By Its Secretary, Health And
Family Welfare Department Fort. St.
George, Chennai-600 009

2.The Director Of Medical Education,
Kilpauk, Chennai-600 010

3.The Director Of Medical And Rural
Health Service,
Anna Salai, Chennai

4.The Directorate Of Public Health
And Preventive Medicine,
Anna Salai, Teynampet,
Chennai-600 086

5.The Dean
Tirunelveli Medical College,
Tirunelveli-627011

6.The Dean
Government Villupuram Medical
College, Mundiampakkam,
Villupuram-605 601



WEB COPY



WP No. 27231 of 2025

C.KUMARAPPAN J.

kmi

WP No. 27231 of 2025

31-07-2025
(1/2)