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WP No. 47991 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

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THE HONOURABLE MR JUSTICE M.DHANDAPANI

**WP No. 47991 of 2025
and WMP NO. 53582 and 53584 of 2025**

Malathi.G

Petitioner(s)

Vs

1. The Director of School Education
Directorate Of School Education,
Chennai.

2.The Director
Directorate Of Elementary Education,
Subba Road Avenue, Nungambakkam,
Chennai.

3.The Chief Educational Officer
Office of the Chief Educational Officer,
Tiruvannamalai District.

4.The Block Educational Officer-II
Office of the Chief Educational Officer,
Tiruvannamalai District.

5.The Head Master
Panchayat Union Middle School,
Nagapadi, Pudupalayam Union,
Thiruvannamalai District.

Respondent(s)

PRAYER; Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent dated 18.11.2025 ending with Aa.Ti.Mu.No.924/



A2/ 2025 and quash the same and consequently direct the 3rd respondent to grant maternity leave to the petitioner from 20.11.25 to 19.11.26 as sought vide representation dated 05.11.2025.

For Petitioner(s): M/s.I.Kowser Nissar
For Respondent: Mr.Mythreye Chandru, SGP

ORDER

This Writ Petition has been filed challenging the order passed by the 3rd respondent dated 18.11.2025 on the ground that the petitioner was due for delivery for third pregnancy and for a consequential direction to the respondents to sanction maternity leave to the petitioner for the period from 20.11.25 to 19.11.26 as sought vide representation dated 05.11.2025.

2. The petitioner is a secondary grade teacher working in the Panchayat Union Middle School and she was appointed on 09.02.2024 and joined duty on 25.07.2025. The petitioner married one Kesavan in the year 2016 and they have two children. It is the case of the petitioner that she became pregnant again and she applied for maternity leave to the third respondent vide application dated 05.11.2025. The said request was denied by the respondents on the ground that the Government servant is not entitled for maternity leave for the birth of third child.

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 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:

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



6. With the above observations, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17-12-2025

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Note; Issue order copy on 17.12.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Director of School Education
Directorate Of School Education,
Chennai.

2. The Director
Directorate Of Elementary Education,
Subba Road Avenue, Nungambakkam,
Chennai.

3. The Chief Educational Officer
Office Of The Chief Educational
Officer, Tiruvannamalai District.

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W.P.No.47991 of 2025
And
W.M.P.Nos.53582 and 53584 of 2025

M.DHANDAPANI,J.

The matter is today listed under the caption ‘for being mentioned’.

2.The learned counsel appearing for the petitioner submitted that this Court while disposing the writ petition directed the respondents to confer maternity leave to the petitioner, however, it has not been mentioned in the order dated 17.12.2025 made in W.P.No.47991 of 2025 and prayed for appropriate orders.

3.In view of the above, paragraph no.5 of the order dated 17.12.2025 made in W.P.No.47991 of 2025 is to be read as follows:

"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, the respondents are directed to confer maternity leave to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. However, the said view of this Court, which is on the basis of the decision in Ranjitha & Lakshmi Case (Supra) would be subject to the result of Lakshmi case (Supra).

4.Registry is directed to carry out the necessary corrections and re-issue copy of the order to the respective learned counsel appearing for the parties.

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19.12.2025



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