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W.P.(MD) No.4198 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.4198 of 2022

and

W.M.P.(MD) No.3599 of 2022

C.Gayathri

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep.by its Secretary to Government
School Education Department
Secretariat, Chennai
- 2.The Director of Elementary Education
O/o.The Director of Elementary Education
DPI Campus, College Road, Chennai-6
- 3.The Chief Educational Officer
O/o.The Chief Educational Officer
Trichy, Trichy District
- 4.The District Educational Officer
O/o.The District Educational Officer
Trichy, Trichy District
- 5.The Block Educational Officer
Vaiyampatty Block
Trichy District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the 5th respondent vide his proceedings Na.Ka.No. 656/Aa1/2020 dated 25.01.2021 and quash the same as illegal in so far as the regularizing the adoption leave period by deducting the same from the earned and unearned leave of the petitioner and consequentially to direct the 5th respondent to regularize the period of the adoption leave availed by the petitioner for the period between 08.07.2019 and 02.05.2020 as per G.O. (Ms).No.150, Personnel and Administrative Reforms (FR-II) Department, dated 31.10.2018 as eligible leave with salary within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 25.01.2021, passed by the fifth respondent, rejecting the petitioner's request for adoption leave.



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2. The petitioner seems to have adopted a child below the age of one year as seen from the affidavit filed in support of this writ petition. The petitioner claims that as per the Fundamental Rules of the Tamil Nadu Government, she is entitled for adoption leave for a period of 270 days. She had applied for the said leave, which has been rejected under the impugned order dated 25.01.2021, passed by the fifth respondent.

3. A counter has been filed by the respondents denying the contention of the petitioner that she is entitled for special adoption leave. According to the respondents, as per the Government Order in G.O.Ms.No. 342, Social Welfare Department, dated 08.12.1995, the petitioner is not entitled to avail special adoption leave as she has not satisfied the conditions imposed therein.

4. However, learned counsel for the petitioner drew the attention of this Court to Rule 101(ab) of the Fundamental Rules of the Tamil Nadu Government, which deals with special adoption leave and would submit that the Competent Authority, the fifth respondent herein, is empowered to grant



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special adoption leave to the petitioner for a period of 270 days. But, erroneously and arbitrarily, by total non-application of mind to the said Fundamental Rule, the fifth respondent has rejected the petitioner's request for special adoption leave. He would submit that the Government Order, referred to by the fifth respondent, has no applicability to the case of the petitioner, since the Fundamental Rule, referred to supra, makes it clear that the petitioner is entitled for special adoption leave and therefore, the Government Order cannot override the Fundamental Rules.

5. As seen from the impugned order, Rule 101(ab) of the Fundamental Rules of the Tamil Nadu Government, which deals with special adoption leave and is re-produced hereunder, has not been considered by the fifth respondent while rejecting the petitioner's request for adoption leave:

- “1. The Competent Authority may grant special adoption leave for a period of 270 days to a woman Government Servant who adopts a child below the age of one year.*
- 2. For the grant of such leave, the adoption must be a legal one.*
- 3. The leave shall be granted from the date of legal adoption and without medical certificate.”*



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6. The fifth respondent has rejected the petitioner's request by placing reliance on a Government Order. Government Order cannot override the Fundamental Rules. No opportunity was granted to the petitioner before passing the impugned rejection order to submit an explanation as to how Rule 101(ab) of the Fundamental Rules of the Tamil Nadu Government applies to her case and therefore, she is eligible to avail special adoption leave.

7. For the foregoing reasons, since the impugned order is a non-speaking order with regard to Rule 101(ab) of the Fundamental Rules of the Tamil Nadu Government and in the interest of justice, this Court deems it fit to quash the impugned order passed by the fifth respondent and to remand the matter back to the fifth respondent for fresh consideration, on merits and in accordance with law, after providing an opportunity to the petitioner to submit an explanation as to how Rule 101(ab) of the Fundamental Rules of the Tamil Nadu Government applies to her case and therefore, she is entitled to avail special adoption leave.



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8. In the result, the impugned order dated 25.01.2021, passed by the fifth respondent, is hereby quashed. The petitioner is directed to submit an explanation to the fifth respondent within a period of fifteen days from the date of receipt of a copy of this order giving reasons as to how she is entitled for special adoption leave. On receipt of the said explanation from the petitioner, the fifth respondent shall pass final orders on merits and in accordance with law, after giving due consideration to the explanation submitted by the petitioner, within a period of twelve weeks thereafter.

9. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Chennai.



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ABDUL QUDDHOSE, J.

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and
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