



W.P.(MD)No.17714 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2025

CORAM

**THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE**

**W.P.(MD)No.17714 of 2022**  
**and**  
**W.M.P.(MD).No.12904 of 2022**

K.Yogarani

... Petitioner

Vs.

- 1.The State of Tamil Nadu,  
Rep. by its Chief Secretary to Government,  
Fort St.George, Chennai 600 009.
- 2.The Principal Secretary to Government,  
Human Resources Management Department,  
(Formerly Known as Personnel and  
Administrative Reforms Department),  
Fort St.George, Chennai 600 004.
- 3.The Director General of Police,  
State of Tamil Nadu,  
27, Dr.Radhakrishnan Salai Road,  
Mylapore, Chennai 600 004.
- 4.The Inspector General of Police,  
Armed Police Head Quarters,  
Lutheral Garden, Kilpauk,  
Chennai 600 010.
- 5.The Commissioner of Police,  
Madurai City, Madurai.



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6.The Assistant Commissioner of Police,  
Anna Nagar Range,  
Madurai City,  
Madurai.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the entire records pertaining to impugned order in Na.Ka.No.L3/416/2022 dated 28.05.2022 passed by the fifth respondent and quash the same as illegal and consequently direct the fifth respondent to pass appropriate orders granting Maternity Leave for the petitioner for the period between 07.04.2022 to 06.04.2023 under G.O.Ms.No.84 Human Resource Management Department, dated 23.08.2021, within a time stipulated by this Court.

|                |                                                                                                 |
|----------------|-------------------------------------------------------------------------------------------------|
| For Petitioner | : Mr.P.M.Vishnuvarthanan                                                                        |
| For R-1 & R-2  | : Mr.C.Satheesh,<br>Government Advocate                                                         |
| For R-3 to R-6 | : Mr.Veerakathiravan, AAG-II,<br>assisted by<br>Mr.A.Baskaran,<br>Additional Government Pleader |

### **ORDER**

This writ petition has been filed challenging the impugned order dated 28.05.2022 passed by the fifth respondent rejecting the petitioner's request for maternity leave for the period from 07.04.2022 to 06.04.2023 on the ground that the petitioner is not entitled to seek maternity leave for her third child.



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2. The petitioner is working as a Police Constable in the respondent-Department. She did not seek maternity leave for her first child. She sought for maternity leave only in respect of her second child and the same was also granted and availed by her. In respect of her third child, which is the subject matter of this writ petition, her request for maternity leave for the period from 07.04.2022 to 06.04.2023 has been rejected under the impugned order passed by the fifth respondent on the ground that, for the third child, the petitioner is not entitled to seek for maternity leave, by relying upon G.O.(Ms).No.84, Human Resource Management Department, dated 23.08.2021.

3. The petitioner has challenged the impugned order on the ground that the fifth respondent has not taken into consideration the scope and purpose for which the Government of Tamil Nadu enhanced the period of maternity leave vide G.O.(Ms).No.84, Human Resource Management Department dated 23.08.2021 from nine months to twelve months.

4. A counter-affidavit has been filed by the respondents reiterating the contents of the impugned order. The respondents have relied upon Fundamental Rule-101 and they have stated that as per the said Rule, since the petitioner has three surviving children, she has been denied maternity leave for



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her third child under the impugned order. They have also stated that the Tamil Nadu Fundamental Rules is a special law, as it deals with maternity leave of only State Government servants, whereas the Maternity Benefit Act, 1961, is a general law and it deals with both the public and private sector. Therefore, according to the respondents, the Tamil Nadu Fundamental Rules Special Law prevails over the Maternity Benefit Act, 1961, because it is a general law.

5. The learned counsel appearing for the petitioner would also submit that since the petitioner has not claimed maternity leave for her first child, she is entitled to claim maternity leave for her third child. She would submit that being a beneficial provision on technical grounds, the respondents cannot reject the petitioner's request for maternity leave in respect of her third child despite the fact that the petitioner did not claim maternity leave for her first child. He also drew the attention of this Court to the recent decision rendered by the Hon'ble Supreme Court dated 23.05.2025 in ***Civil Appeal No.2526 of 2025*** in the case of ***K.Umadevi Vs. The Government of Tamil Nadu and Others***. In particular, he relied upon Paragraph No.33.4. In the aforesaid decision, where the Hon'ble Supreme Court had considered a case for granting maternity leave where the employee was having two children out of her first marriage and one biological child out of her second marriage after entering into the service. The



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Hon'ble Supreme Court held that the grant of child care leave to the employee for two children out of the employee's first marriage cannot be used to disentitle the employee from getting maternity leave for the child born out of the legally wedded second marriage. The Hon'ble Supreme Court has already observed that whenever Courts are confronted with such situation that would do well to attempt to give effect to the propose of the law in question rather than to prevent its application.

6. On the other hand, the learned Additional Advocate General-II appearing for the respondents would rely upon the first proviso to Fundamental Rule 101(a). Fundamental Rule 101(a) deals with maternity leave. The first proviso to Fundamental Rule 101(a) makes it clear that the maternity leave shall be granted, but to a married woman Government servant with less than two surviving child. In the case on hand, it is an admitted fact that the petitioner never claimed maternity leave for her first child. Though the respondents have contended that the petitioner was a deserter when the petitioner had delivered her first child, the Fundamental Rule 101(a) does not provide that in case of a deserter, who had not claimed maternity leave in respect of her first child, the said employee will not be entitled for maternity leave for her remaining two children. As observed by the Hon'ble Supreme Court, a purposive interpretation



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will have to be given in cases of this nature, which is a beneficial provision for employees to seek maternity leave in order the child born is not deprived of his / her motherhood. The Hon'ble Supreme Court in ***K.Umadevi's case*** in its recent decision which has been relied upon by the learned counsel appearing for the petitioner has also given a purposive interpretation to enable the petitioner therein to get maternity leave though in that case as well for the third child, the petitioner was seeking maternity leave.

7. In that case, maternity leave was sought for by the employee for the sole biological child out of her wedlock after her first marriage ended in divorce and for earlier two children born out of the first marriage were living with her divorced husband.

8. The proviso to Fundamental Rule 101(a) relied upon by the learned Additional Advocate General-II appearing for the respondents also on a *prima facie* consideration though restricts that maternity leave can be availed only for two children, but, it has not restricted the grant of maternity leave to an employee, who is claiming maternity leave for her third child and who did not claim maternity leave for her first child. Therefore, it is clear that the petitioner is not seeking maternity leave for more than two children.



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9. The impugned order is a non speaking order with regard to the petitioner's contentions in this writ petition. No reasons have been given as to how despite the fact that the petitioner is claiming maternity leave only up to a maximum of two children, the respondents have come to the conclusion that the petitioner is not entitled for maternity leave on the ground that the petitioner is seeking maternity leave for her third child.

10. Being a non-speaking order, an order which has not given a purposive interpretation of Fundamental Right 101(a) and has not considered the recent decision rendered by the Hon'ble Supreme Court in the case of ***K.Umadevi Vs. the Government of Tamil Nadu and Others*** rendered in ***Civil Appeal No.2526 of 2025***, this Court is of the considered view that the impugned order passed by the fifth respondent has to be quashed and the matter is to be remanded back to the fifth respondent for fresh consideration on merits and in accordance with law within a time frame to be fixed by this Court.

11 Accordingly, the impugned order dated 28.05.2022 passed by the fifth respondent is hereby quashed and this writ petition is disposed of by remanding the matter back to the fifth respondent for fresh consideration on merits and in



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accordance with law. The fifth respondent is directed to pass final orders within a period of twelve weeks from the date of receipt of a copy of this order after giving a purposive interpretation to Fundamental Rule 101(a) after giving due consideration to the judgment of the Hon'ble Supreme Court rendered in Civil Appeal No.2526 of 2025 dated 23.05.2025 in the case of ***K.Umadevi Vs. The Government of Tamil Nadu and Others.*** No costs. Consequently, the connected miscellaneous petition is closed.

**04.11.2025**

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

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- 2.The Principal Secretary to Government,  
Human Resources Management Department,  
(Formerly Known as Personnel and  
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**ABDUL QUDDHOSE, J.**

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