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W.A.(MD) No.2444 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A.(MD) No.2444 of 2025

and

C.M.P.(MD) Nos.14034 & 14035 of 2025

S.Selvi

... Appellant

-VS-

- 1.The Additional Chief Secretary
Health and Family Welfare Department
Secretariat, Fort St.George
Chennai
- 2.The Director of Medical Education
Office of the Director of
Medical Education
E.V.R.Road, Kilpauk
Chennai
- 3.The Dean
Government Medical College Hospital
Nagapattinam



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4.The Administrative Officer
Government Medical College Hospital
Nagapattinam

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 16.06.2025, passed in W.P.(MD) No.15534 of 2025, on the file of this Court.

For Appellant : Mr.S.Malaikani

For Respondents : Mr.J.Ashok
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The present intra court appeal has been instituted challenging the writ order dated 16.06.2025, passed in W.P.(MD) No.15534 of 2025.

2. The writ petitioner is the appellant herein. Writ proceedings were initiated seeking a direction to the respondents to grant maternity leave to the appellant from 01.08.2025 to 31.07.2026 for the third child.



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3. Admittedly, the appellant has two surviving children and submitted an application seeking maternity leave for her third child.

4. In this regard, the policy of the Government has to be considered by the Courts. Grant of maternity leave is a concession and not part of the service condition. It is a Scheme extended to the women Government servants working in the Government Departments. The employer is empowered to formulate a Scheme in the nature of concession and therefore, the Courts cannot expand the Scheme, which would result in unnecessary financial burden to the State.

5. In the present case, the Government of Tamil Nadu issued G.O.Ms.No.237, Personnel and Administrative Reforms (FR.III) Department, dated 29.06.1993. In the said Government Order, the Government has restricted maternity leave to women servants having two living children. Clause 5 of the said Government Order reads as under:

“5)The matter was examined in detail and after careful consideration the following orders are issued:



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- (i) *A Women Government servant with less than two surviving children may be allowed maternity leave for a period of 90 days from the date of its commencement.*
- (ii) *Maternity leave not exceeding 6 weeks for miscarriage, including natural abortion or abortion under Medical Termination of Pregnancy Act, 1975 may be granted to a women Government Servant irrespective of number of surviving children on production of Medical Certificate.*
- (iii) *Notwithstanding the requirement of production of medical certificate leave of the kind due and admissible upto a maximum of one year may, if applied for, be granted in continuation of Maternity leave granted.”*

6. The policy shows that a woman Government servant with less than two surviving children may be allowed maternity leave for a period of 90 days from the date of its commencement. Therefore, the Government policy does not permit the maternity leave for third child.

7. In the present case, admittedly, the appellant has submitted an application to extend the maternity leave benefit to her for the third child.



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That being the reason, the Writ Court has rejected the claim of the appellant.

8. Learned counsel for the appellant would rely on the Judgment of the Supreme Court in the case of ***K.Umadevi vs. Government of Tamil Nadu and others***, reported in **2025 INSC 781**. The facts in the said case are distinguishable and in Paragraph No.34 of the said Judgment, the Apex Court has recorded the reasons 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 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.”

9. Therefore, the above cited decision of the Supreme Court cannot be applied in the case of the appellant herein. Admittedly, in the present case, the appellant is having two surviving children and she has submitted an application seeking maternity leave for the third child. That being the position, this Court does not find any infirmity in the impugned



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order passed by the Writ Court.

10. Accordingly, this writ appeal is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[G.A.M., J.]

25.08.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

1.The Additional Chief Secretary,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai.

2.The Director of Medical Education,
Office of the Director of
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