IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 1259 of 2026

G.Thilagavathi
W/o Jawahar,
No 28/13, Maanam Partha Jamendhar street,
Kosapettai,
Vellore-632 001

..Petitioner(s)

Vs

1. The State of Tamilnadu
   Rep by the Principal Secretary,
   Commercial Taxes and Registration Department,
   Fort St George,
   Chennai 600 009
2. The Joint Commissioner (State Tax)
   (Intelligence)
   Vellore Intelligence Division,
   Office of the Joint Commissioner (State Tax)
   (Intelligence)
   No 4 Bharathiyar Salai, Fort round road,
   Vellore- 632 001

..Respondent(s)

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records connected with the order dated 29.12.2025 passed by the 2nd respondent and quash the same as illegal and arbitrary, and consequently direct the 2nd respondent to grant maternity leave to the petitioner from 04.02.2026 to

3.02.2027 along with all attendant service and monetary benefits, by considering the petitioners representation dated 10.12.2025

For Petitioner(s): Mr.T.Arunkumar

For Respondent(s): Ms.P.Selvi,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned order dated 29.12.2025 passed Na.Ka.A1/5008/2025 in by the second respondent 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 04.02.2026 to 03.02.2027.

2. The petitioner is employed as Junior Assistant under the control of the second respondent. It is the case of the petitioner that the petitioner is already having two children and she became pregnant again and she applied for maternity leave to the second respondent vide application dated 10.12.2025. The said request was denied by the second respondent 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.33559 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:

> *"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 beneifts 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. 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. 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. In view of the above categorical finding of the Hon'ble Supreme Court of India that a Government employee would be entitled for maternity leave for the birth of third child, this Writ Petition stands allowed and the impugned order dated 29.12.2025 in Na.Ka.A1/5008/2025 passed by the second respondent is quashed. The respondents are directed to grant maternity leave to the petitioner as prayed for. There shall be no order as to costs.

20-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

UMA

To

1. The State of Tamilnadu
   Rep by the principal Secretary,
   Commercial Taxes and Registration Department,
   Fort St George,
   Chennai 600 009

2. The Joint Commissioner (State Tax)
   (intelligence)
   Vellore Intelligence Division,
   Office fo the Joint Commissioner (State Tax)
   (Intelligence)
   No 4 Bharathiyar Salai, Fort round road,
   Vellore 632 001

M.DHANDAPANI, J.

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