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WA No. 12 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

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1. S.Pavithra
Directorate Of Medical And Rural Health Services,
Central Prison(Women) Dispensary,
Vellore, Vellore District.
2. Bhackiya.A
Directorate Of Medical And Rural Health Services,
Government Hospital, Paravurani,
Thanjavur District
3. Kaarnika.S
Directorate Of Medical And Rural Health Services,
Government Headquarters Hospital, Gudalur
The Nilgiris District
4. Loga Nivethaa.R.K
Directorate Of Medical And Rural Health Services
Government Hospital, Dharapuram,
Tiruppur District
5. R.Anusha
Directorate Of Medical And Rural Health Service-
Government Hospital, Thirukkuvalai,
Nagapattinam District
6. Kepelhounai U Kehie
Greater Chennai Corporation,
UPHC, Pushpanagar, UPHC.



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7. Syed Moza
Greater Chennai Corporation,
Thiruvottriyur, UCHC
8. Bhavani Gowri Santhiya
Greater Chennai Corporation,
UPHC, Saidapet EOC
9. Maksooda Noorshida Banu.P
Greater Chennai Corporation,
UPHC, Thiruvottriyur UCHC
10. Jemy Adalin.R
The Directorate Of Medical Education And
Research, Chennai-10, Government Medical
College, Nagapattinam.
11. Nivya.R
Directorate Of Medical And Rural Health Services,
Government Hospital, Thittagudi,
Cuddalore District
12. Supriy.A.S, Greater Chennai Corporation,
UPHC PADI UCHC,
13. B.Anuradha
Greater Chennai Corporation,
UPHC RAGAVA COLONY, UPHC
14. Sameena Begam, K
Directorate Of Medical And Education And
Research, Chennai Govt.Medical College,
The Nilgiris, Udthagamandalam
15. Bhagyalakshmi
Directorate Of Medical And Rural Health Services-
Maduranthakam Govt.Hospital,
Maduranthakam, Chengalpattu-603 306

..Appellants



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Vs

1. The State Of Tamil Nadu
Rep By Its Principal Secretary,
Health And Family Department,
Secretariat, Chennai-600 009.
2. The Director
Directorate Of Medical And Rural Health Services,
Health And Family Department,
No.359, DMS Complex, 361 Anna Salai,
Chennai-600 006.
3. The Director
Directorate Of Medical Education And Research,
Health And Family Department,
Kilpauk, Chennai-600 010

..Respondents

Prayer : Writ Appeal under Clause XV of the Letters Patent to allow the writ appeal by setting aside order dated 17.11.2025 passed in WP.No.43710 of 2025.

For Appellants : Mr.E.K.Kumaresan

For Respondents : Ms.M.Sneha
Special Panel Counsel for
Health and Family Welfare Department

Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed by the learned Writ Court dated 17.11.2025 made in W.P.No.43710 of 2025.

2. The appellants are the writ petitioners, who are all Post Graduate Doctors.

At the time of joining the Post Graduate Course, they have executed a bond to the



State Government that, after completion of the Post Graduate degree they will work for two years as bond period with the State Government in the hospitals, where they are posted as Post Graduate Doctors. Though they are non-service candidates, due to the bond executed by them, they have to serve for two years as bond period. All these petitioners joined in the hospitals for completion of bond service of two years. However, during this bond period of two years these petitioners / appellants have become pregnant and therefore they applied for maternity leave.

3. Insofar as the sanctioning of the maternity leave to these doctors is concerned, the stand of the State Government was that, they can avail the maternity leave to the maximum of one year as per the rule which is in vogue applicable to all government servants of the State of Tamil Nadu provided after the completion of one year maternity leave, they shall work for the said one year period in compensation as extended bond period. In other words, apart from the one year maternity leave, either way the Post Graduate Doctors shall complete two years bond period service exclusively.

4. Moreover, during the bond period since the Post Graduate Doctors are getting stipend, during the maternity leave whether they are entitled to such stipend or not also was one of the questions. Therefore, in order to get the maternity leave of one year with stipend or salary, in whatever name it is called, all these Post



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Graduate Doctors ie., non-service Post Graduate Doctors who were in the bond period, approached the Writ Court seeking the benefit of maternity leave with stipend / salary for which they sought for a Mandamus. That is how the writ petition came to be filed.

5. After considering the writ petition, the learned Writ Court had declared that these doctors are entitled to get one year maternity leave but they are not otherwise entitled to get any other monetary benefit because they are not service candidates. Aggrieved over the said order only, the present writ appeal has been preferred.

6. We have heard the learned counsel for the appellant and the learned Standing Counsel for the respondent Department.

7. Learned counsel for the appellants has relied upon a Division Bench judgment of this Court dated **19.06.2025** made in **W.P.(MD) No.860 of 2023** in the matter of **"Dr.E.Krithikaa -vs- State of Tamil Nadu represented by its Principal Secretary, Health and Family Welfare Department and Others"**.

8. By citing the above decision, the learned counsel for the appellants would canvass the point that even in the said judgment of Dr.Krithikaa's case also the very



same issue has been considered by the Division Bench, wherein it has been held that the Post Graduate Doctors, who are in the bond period working in any hospital of the State Government, are also entitled to the very same treatment applicable to any government employee insofar as maternity benefits are concerned. Therefore, what has been held in the said Division Bench judgment would squarely apply to the case of the present appellants also, is the contention of the learned counsel for the appellants.

9. We have heard Ms.M.Sneha, learned Standing Counsel, who would submit that, insofar as the bond period is concerned, these Post Graduate Doctors being non-service candidates are serving only the bond period in view of the bond executed by them at the time of joining the post graduate course in government institutions. When that being so, during the bond period it cannot be treated as service being rendered by them as employees of the State Government and therefore, whatever benefits that are accrued on the employees who are working permanently or in sanctioned post or in non-temporary post, those benefits cannot be extended to these non-service candidates, who are admittedly serving the bond period.

10. Learned Standing Counsel would also submit that, insofar as the sanctioning of the maternity leave of one year even during the bond period is



concerned, it is not denied by the State Government. Therefore, to that extent they are entitled to get the one year leave as maternity benefit. However, in order to compensate the one year leave, they have to work for the remaining period of one year ie., extended bond period.

11. We have considered the submissions made by the learned counsel for both sides and have perused the materials placed before us.

12. Insofar as the maternity benefit for the women who are pregnant is concerned, the main legislation is the Maternity Benefit Act, 1961, where, Section 5 makes it very clear that, subject to the provisions of the Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day. Section 5(2) also states that, no woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery. Some more conditions have also been provided by way of provisions to Section 5 of the Maternity Benefit Act.



13. Though it is not strictly stated in Section 5 of the Maternity Benefit Act about the right of the persons like the Post Graduate Doctors who are working in the bond period, for all practical purposes if the Post Graduate Doctors who are working in the bond period are entitled to get maternity leave for one year as equivalent to other State Government employees, certainly the benefits such as salary or stipend in whatever name it is called be extended to them because that has been indicated in Section 5(1) of the Act itself.

14. Section 12 of the Act also ensures that, during the period of maternity leave, no dismissal or discharge for whatever reasons shall be undertaken by the employer. Section 27 of the Act also provides that the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act.

15. Therefore, even if there has been an agreement between the Post Graduate Doctors and the State Government to work for two years bond period, even such an agreement cannot restrict the benefit that has been provided for under the provisions of the Maternity Benefit Act to such Post Graduate Doctors or temporary employees who are working for a shorter period or bond period, as the case may be, like the present appellants / writ petitioners.



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16. That apart, the exact situation as to whether the Post Graduate Doctors ie., non-service doctors who are working in the bond period whether would be entitled to get maternity leave or maternity benefits with salary or stipend has exactly been considered and answered by a Division Bench of this Court in **Dr.E.Kiruthikaa's** case cited supra, wherein *inter alia* the following has been held.

" 8.As per the conditions set out in the prospectus, the appellant has to serve the Government of Tamil Nadu in one of their hospitals for a period of two years. This condition has to give way to the rights conferred on the women under the provisions of the Maternity Benefit Act, 1961. This is all the more so because the Hon'ble Supreme Court had declared that any woman has a fundamental right to the benefits arising out of her situation of maternity. Maternity leave is integral to maternity benefit and forms a facet of Article 21. The appellant no doubt is not a government employee. She is only obliged to render bond service to the Government of Tamil Nadu for a period of two years. But a regular State government employee is entitled to avail maternity leave for twelve months as per the amended Service Rules. We are of the view that the appellant is also entitled to the very same treatment applicable to any government employee. The fact that the appellant was only in the service of the government without being a regular employee is irrelevant. When the fundamental right of the appellant is involved, she is entitled to the protective umbrella of not only Article 21 but also Article 14.



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9. John Milton in “Paradise Lost” sang “They also serve who only stand and wait”. The second half of the bond service turned out to be maternity period for the appellant. Applying the legal fiction laid down in **Kavita Yadav**, the appellant must be taken to have served the Government of Tamil Nadu even during her maternity period. In other words, the maternity period of twelve months has to be counted as part of the bond period.

10. In this view of the matter, the order passed in the writ petition is set aside. This writ appeal stands allowed. The respondents are directed to return the petitioner's original certificates within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”

17. The Division Bench has made it clear that the appellant therein ie., the doctor who is similarly placed as that of the appellants herein, is also entitled to the very same treatment applicable to any Government employee. This finding of the Division Bench would certainly bind the Principal Secretary to the Government, Health Department of the Government of Tamil Nadu, Directorate of Medical Education and other respondents, who are respondents in this appeal also.

18. Though the said Division Bench judgment is claimed to have been appealed before the Hon’ble Supreme Court as stated by the learned Standing Counsel appearing for the respondents, so far the appeal seems to have been not



numbered and has been brought to admission before the Supreme Court.

Therefore, as of now the judgment rendered by the Division Bench by order dated 19.06.2025 in **Dr.E.Kiruthikaa's** case since holds the field, we are in respectful agreement with the view expressed by the Division Bench in the said case.

19. In that view of the matter, the direction given by the learned Single Judge only to the extent of availing the maternity leave benefit by the Post Graduate Doctors but without claiming any salary or stipend during the maternity leave period and it has to be adjusted with the bond period, may not be justifiable in view of the legal position, which is prevailing as of now. Therefore, the order impugned passed by the learned Writ Court is liable to be interfered with only to the extent it denies the monetary benefit to those who have availed maternity leave during the bond period and also the restriction made on them to extend their bond period equal to the maternity leave availed by them.

20. In that view of the matter, this writ appeal is disposed of with the following orders:

- (a) The appellants are entitled to get maternity leave for a maximum period of one year which is equivalent to the benefit being extended to any other government employee of the State Government including the doctors who are in service at the



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respondent department. Therefore, such a benefit be extended to these appellants also.

- (b) During the maternity leave period of one year, these appellants are entitled to claim the stipend / salary, as the case may be, as applicable to them as Post Graduate Doctors even during the bond period.
- (c) Since it is purely a leave arising out of the Maternity Benefit Act as well as various judgments passed by the Courts of law like **Kavita Yadav v. State (NCT of Delhi) (2024) 1 SCC 421, K.Uma Devi vs. Government of Tamil Nadu (2025 SCC OnLine SC 1204)**, where since it has been declared to be a constitutional right within the meaning of Article 21 of the Constitution of India, the said maternity leave period also has to be calculated as service period being exhausted during the bond period and therefore, one year maternity leave period be taken as service of bond period out of the total years by these appellants / writ petitioners. Therefore, no further period or extension of the bond period be insisted because of the availing of one year maternity leave by these appellants.



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(d) A copy of this judgment be forwarded to the Principal Secretary to the Government, Health and Family Welfare Department, Government of Tamil Nadu, Director of Medical And Rural Health Services and Directorate of Medical Education, Government of Tamil Nadu for strict compliance of these orders in all future cases of similar nature.

21. With the above directions, the order passed by the Writ Court dated 17.11.2025 made in W.P.No.43710 of 2025 is modified accordingly and thereby the writ appeal is disposed of to the extent indicated above. No costs.

(R.S.K.,J.) (S.S.A.,J.)
04-02-2026

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

Note : Issue Order copy on 10.02.2026



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To

1. The Principal Secretary to the Government,
Health And Family Department,
Secretariat,
Chennai-600 009.
2. The Director
Directorate Of Medical And Rural Health Services,
Health And Family Department,
No.359, DMS Complex, 361 Anna Salai,
Chennai-600 006
3. The Director
Directorate Of Medical Education And Research,
Health And Family Department, Kilpauk,
Chennai-600 010



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