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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

WP No. 40841 of 2025

S.Divya

No 6, 4th Kamarajar Street, Gandhi Nagar,
Pattabiram, Chennai 600 072

..Petitioner(s)

Vs

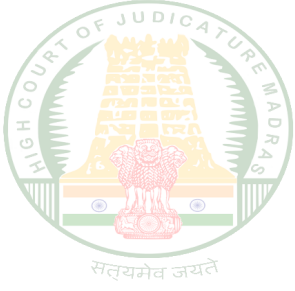
1. The Registrar General,
Madras High Court,
Chennai 600 104
2. The Treasury Officer,
District Treasury,
Thiruvallur.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the records of the 2nd respondent in K.No 1817588 / L 1 / 2025 dated 01.09.2025 and 18.09.2025 and quash the same and consequently direct the 2nd respondent to make payment from June 2025 for the period of maternity leave sanctioned (26.03.2025 to 25.05.2026) to the petitioner.

For Petitioner(s): Ms.G.Priyadharshini

For Respondent(s): Mr.K.Umesh Rao,
for R1
D.R.Gouri,
Government Counsel

**ORDER****(Order of the Court was made by S.M.Subramaniam J.)**

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The present writ petition has been instituted by an Office Assistant serving in the Court of Judicial Magistrate, Fast Track Court Magisterial Level, Poonamallee.

2.The petitioner states that she has three children namely, (i) Sai Samyuktha, aged about 6 years, currently studying 1st standard in a private school, (ii) Ms.Poshika, aged about 3½ years, studying LKG and (iii) Jeevithan, born on 14.06.2025. She applied for maternity leave for her delivery and baby care for 365 days for a period from 26.05.2025 to 25.05.2026 along with the medical certificate before the Judicial Magistrate, Fast Track Magisterial Level, Poonamallee. The learned Judicial Magistrate sanctioned maternity leave vide proceedings dated 15.05.2025 in line with G.O.Ms.No.84, Human Resources Management Department dated 23.08.2021. As per the said Government Order, the petitioner claims that she is eligible for maternity leave for 365 days. The order was forwarded to the Principal District Judge, Tiruvallur, for approval. The Principal District Judge, Tiruvallur, approved the maternity leave granted by Judicial Magistrate. Consequently, salary bills were presented to the Treasury concerned. The Treasury on 26.06.2025 turned down the bills citing Fundamental Rule 101(A) on the ground that the petitioner is not eligible for maternity leave of 365 days



for the 3rd child. Since the Treasury rejected to pay the salary for 365 days maternity leave, the present writ petition came to be instituted.

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3. Learned counsel for the writ petitioner would contend that a government employee is eligible for maternity leave of 365 days even for 3rd child. Therefore, the leave was sanctioned properly by the Judicial Magistrate. However, the treasury has raised an objection by citing Fundament Rule 101(A) which is not in consonance with the decisions of this Court.

4. Learned counsel for the petitioner would rely on the judgment of the Division Bench of this Court in the case of **B.Ranjitha vs. The Registrar General, High Court of Madras**, reported in **2025::MHC::2146¹**. Yet another judgment of the Division Bench in the case of **Shayee Nisha vs. Registrar General, High Court, Madras** dated 28.04.2026 in W.P.No.16245 of 2026 also granted the relief. That apart, even there is no prohibition to grant full maternity leave for 3rd child in view of the Supreme Court judgment. Thus, the present writ petition is to be considered.

5. Learned counsel for the 1st respondent supported the claim of the writ petitioner mainly on the ground that the Judicial Department has sanctioned the maternity leave for 365 days based on the judgment passed in the case of

¹**2025::MHC::2146**



Ranjitha cited supra. By following the said judgment, the learned Judicial Magistrate has sanctioned the maternity leave.

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6. Let us now examine the spirit of the Fundamental Rules 101 which is extracted hereunder.

FR.101 Rule regulating the grant of--

(a) – Maternity leave to female Government servants,

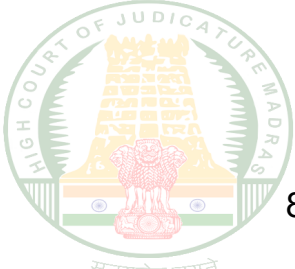
Instructions under FR 101(a) – Maternity leave.

1. (I) A competent authority may grant maternity leave on full pay to permanent married women Government servants and to non-permanent married women Government servants, who are appointed on regular capacity, for a period not exceeding 365 days, which may spread over from the pre-confinement rest to post confinement recuperation at the option of the Government servant.

The first proviso to rule 101(a) of the Fundamental Rules stipulates as follows:-

“provided that the maternity leave referred in (I) or (ii) above shall be granted to a married woman Government servant with less than two surviving children.”

7. The above Fundamental Rules states that maternity leave shall be granted to a married female government servant with less than two surviving children. Further, there is no rule provision in Tamil Nadu Fundament Rules to grant maternity leave to permanent/non-permanent married government servant for the third child.



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8. The Government has taken a policy decision in G.O.Ms.No.237, Personnel and Administrative Reforms Department, dated 29.06.1993, regarding the two surviving children norms for grant of maternity leave. Necessary amendments to the provisions of the Fundamental Rules have been made vide G.O.Ms.No.173, Personnel and Administrative Reforms Department dated 27.06.1997 as follows, giving it to a statute.

*In the said rules, in Rule 101, under the heading “instructions under Rule 101(a) – Maternity Leave”,-
(1) In instruction 1, for the proviso, the following proviso shall be substituted namely:-
“provided that on and from the 29th June 1993, maternity leave shall be granted to a women Government Servant with less than two surviving children”.*

9. Therefore, there is no provision under the Fundamental Rules to grant maternity leave for third child. The Treasury Officer, Tiruvallur, also relied on the policy decision of the Government relying on the Fundamental Rules that there is no provision under the Fundamental Rules to grant maternity leave for the third child. However, the Hon’ble Supreme Court of India considered this issue, based on the Maternity Benefit Act in the case of **Umadevi vs. Government of Tamil Nadu and others** reported in **2025 INSC 781**.²

²2025 INSC 781.



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10. In view of the fact that the Hon'ble Supreme Court has dealt with the issue for grant of maternity leave to the female employee for third child, the said judgment became the law and to be followed scrupulously.

11. The Hon'ble Supreme Court in the case of **Umadevi** cited supra elaborately considered the provisions of Maternity Benefit Act as well as Rule 101(A) of the Fundamental Rule applicable to the Government employees. Under the Fundamental Rule, applicable to the State Government employee in Tamilnadu, there is no provision for grant of maternity leave to the third child. However, the Hon'ble Supreme Court considering the provisions of the Maternity Benefit Act, granted the relief to the female employee for grant of maternity leave for third child. However, the Hon'ble Supreme Court has restricted the benefit for 12 weeks for the third child. In paragraph 19 of the judgment in **Umadevi's** case, the Hon'ble Supreme Court made a finding as under:

19. A careful perusal of the above provision would reveal that grant of maternity benefit is per se not denied to a woman employee having more than two children. Following amendment in the year 2017, a restriction has been introduced in Section 5 by inserting a proviso under sub-section(3) as to the entitlement of the period of maternity leave. A woman employee having less than two surviving children is entitled to a maximum period of benefit i.e., 26 weeks and for a woman employee having two or more than two surviving children, the benefit is restricted to 12 weeks. Thus, there is no ceiling or cap on the number of children to



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claim maternity benefit. Only thing is that in case of a woman employee having two or more than two surviving children seeking maternity leave, period of the benefit is reduced from a maximum period of 26 weeks to a maximum of 12 weeks.

12. Pertinently, the judgment of the Hon'ble Supreme Court in **Umadevi's** case cited supra has been implemented by the Government of Tamil Nadu and G.O.Ms.No.18, Home Resources Management Department, dated 13.03.2026, has been issued. The said Government Order has been issued referring the judgment of the Hon'ble Supreme Court of India dated 23.05.2025 and the Fundamental Rule 101(A). Accordingly, an amendment was inserted in Rule 101(A) of the Fundamental Rules which reads as follows:

AMENDMENTS

In the said Rules, in rule 101, under the heading 'Instructions under Rule 101(a) – Maternity Leave', in instruction 1, for the first and second provisos, the following provisos shall be substituted, namely:-

"Provided that the maternity leave for a period not exceeding 365 days referred in clauses (i) and (ii) above shall be granted to a married woman Government servant having less than two surviving children:

Provided further that in the case of a married woman Government servant having two surviving children born as twins in the first delivery, maternity leave shall be granted for a period not exceeding 365 days for one more delivery.

Provided also that in the case of a married woman Government servant having two or more than two surviving children, maternity leave on full pay for a period not exceeding

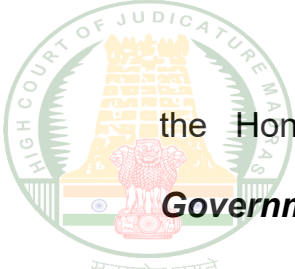


twelve weeks, which may spread over from the pre-confinement rest to post confinement recuperation at the option of the Government servant”.

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13. Therefore, the grant of maternity leave to married woman government servant for more than two children are to be granted in terms of G.O.Ms.No.18 dated 13.03.2026. The Government Order, amending Fundamental Rule 101(A) was issued in pursuance to the judgment of the Hon'ble Supreme Court of India. Therefore, the High Court is not expected to grant the relief over and above the terms and conditions stipulated in G.O.Ms.No.18 dated 13.03.2026 which was issued implementing the directions of the Hon'ble Supreme Court of India. Fundamental Rule was also amended and therefore, the said Rule is to be followed in respect of the female government employee for grant of maternity leave for third child. The amendment issued would show that in case of married woman government servant, having two or more than two surviving children, maternity leave on full pay for a period not exceeding twelve weeks, which may spread over from the pre-confinement rest to post confinement recuperation at the option of the Government servant. Therefore, the said benefit alone is to be granted to the female employee for the third child.

14. In respect of the judgments of the High Court of Madras relied on by the petitioner, this Court is of the considered view that those judgments cannot be followed as a precedence in view of the authoritative pronouncement of



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the Hon'ble Supreme Court of India in the case of **K.Umadevi vs. Government of Tamilnadu** reported in **2025 INS 781** which was implemented vide Government Order of Tamilnadu by G.O.Ms.No.18 Home Resources Department dated 13.03.2026. Thus, the High court, in exercise of powers of judicial review cannot grant the relief contrary to the policy decision of the Government, which was issued based on the judgment of the Supreme Court of India and by amending Rule 101(A) of the Fundamental Rules. Thus, those judgments of the High Court have denuded to lose its status as precedence and may not be followed for the purpose of granting the relief.

15. In view of the above legal position, the relief as such sought for in the writ petition, cannot be granted. However, the eligible benefits as per the Fundamental Rules as amended in G.O.Ms.No.18 dated 13.03.2026 shall be granted to the petitioner by following the procedures as contemplated in the rules. Accordingly, the Writ Petition is disposed of. No costs.

(S.M.S.,J.) (R.S.V.,J.)
24-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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Note:

The first respondent/ Registrar General, High Court of Madras, is directed to communicate a copy of this order to the respective learned Principal District Judges who may circulate the same to the Judicial Officers functioning under their control.

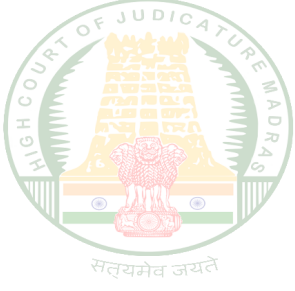


To

1. The Registrar General,
Madras High Court, Chennai 600 104

2. The Treasury Officer
District Treasury Thiruvallur

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**S.M.SUBRAMANIAM, J.
AND
R.SAKTHIVEL, J.**

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