



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 17955/2023

CNR: RJHC020914482023 | URN: CW / 35410U / 2023

Pooja Yadav W/o Arvind Kumar D/o Naresh Kumar, Aged About
30 Years, R/o House No. 300, Dhaliawas, Rewari, Hariyana.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary,
Department Of Education, Secretariat, Jaipur (Raj.)
2. Director, Secondary Education, Bikaner (Raj).
3. District Education Officer (Headquarter), District Khairthal
- Tijara, Rajasthan.
4. Principal, Mahatma Gandhi Government School (English
Medium), Village - Pur, Block Kotkasim, District Khairthal
- Tijara, Rajasthan.

-----Respondents

For Petitioner(s) : Mr.Sudhir Yadav
For Respondent(s) : Mr.Basant Singh Chhaba, AAG with
Mr.Hardik Singh,
Mr.Vinayam Saran &
Ms.Mukta Mann

JUSTICE ANOOP KUMAR DHAND

Order

08/10/2026

1. The instant writ petition has been preferred by the petitioner
with the following prayer:-

"It is, therefore humbly prayed that Your Lordship
may graciously be pleased to accept and allow this
writ petition and by an appropriate writ, order or
direction:-

1. the respondents may kindly be directed to the
grant and allow to continue on maternity leave of
180 days from 01.09.2023 in terms of rule 103



Rajasthan Service Rules (RSR) and orders may be passed by the respondents in regard to maternity leave to the petitioner.

2. the respondents may kindly be directed to grant salary to the petitioner for maternity leave period.

3. Any other appropriate order, which may be found just and proper in the facts and circumstances of the case, be passed in favour of the petitioner.

4. Cost of the writ petition may also be awarded in favour of the petitioner.”

2. By way of filing the instant writ petition, a prayer has been made by the petitioner for issuing directions to the respondents to continue her maternity leave of 180 days w.e.f. 01.09.2023, in terms of the provisions contained under Rule 103 of the Rajasthan Service Rules, 1951 (for short, “Rules of 1951”).

3. Learned counsel for the petitioner submits that the petitioner was posted as Teacher Grade-III (Level-I) at Mahatma Gandhi Government School, Penwalo Ki Dhani, Village Itwaya, Block Siwana, District Barmer. During her posting at the said school, since she was pregnant, she submitted an application for granting maternity leave w.e.f. 01.09.2023 till 04.10.2023, i.e., 34 days and the same was sanctioned by the authorities concerned. In the meantime, on 27.09.2023, she gave birth to a child. Counsel submits that thereafter, the petitioner was selected and appointed on the post of Teacher in Mahatma Gandhi Government English Medium School at Pur, Block Kotkasim, District Khairthal-Tijara and she joined her services on 06.10.2023. Counsel submits that after joining at the new school, she requested the authorities





concerned for grant of maternity leave and allow her to continuously remain on maternity leave of 180 days w.e.f. 01.09.2023, but the said maternity leave was not granted to her. Thereafter she applied for child care leave, which was granted to the petitioner on three different occasions. Counsel submits that in terms of the provisions contained under Rule 103 of the Rules of 1951, the petitioner is entitled to a grant of maternity leave of 180 days. The respondents instead of granting her maternity leave, grant her child care leave and now, they are not releasing the salary for the said period to the petitioner. Hence, under these circumstances, the petitioner has approached this Court by way of filing the instant writ petition seeking appropriate directions.

4. *Per contra*, learned counsel appearing on behalf of the respondent-State opposed the arguments raised by counsel for the petitioner and submitted that after joining at the new school, the petitioner never submitted any application seeking maternity leave rather she applied for child care leave. Counsel submits that even on earlier occasion also, when the petitioner was posted at the previous school, she submitted an application seeking maternity leave of 34 days only and the same was duly sanctioned to her by the competent authority. Counsel submits that thereafter, thrice the same application was submitted for seeking child care leave and on all the three occasions, child care leave was granted to her. Hence, under these circumstances, the petitioner is not entitled to grant maternity leave in her favour and the instant writ petition is liable to be rejected.

5. Heard and considered the submissions made at the Bar and perused the material available on record.



6. Perusal of the record indicates that the petitioner was posted as Teacher Grade-III in the previous school, where she got pregnant and gave birth to a child and applied for maternity leave for a period of 34 days. It appears that during that period, the petitioner was selected for appointment in the Mahatma Gandhi School English Medium School at Pur, Block Kotkasim, District Khairthal-Tijara and she joined the new services at the new school on 06.10.2023. Though, no documentary proof has been placed on record to demonstrate that the petitioner submitted an application before the authorities for grant of maternity leave, but an averment has been made in the writ petition that a request was made to the authorities of the new school, but when no heed was paid to the prayer/grievance of the petitioner, therefore, under these circumstances, looking to the age of the infant, the petitioner applied for child care leave.

7. Rule 103 of the Rules of 1951 deals with the provisions for grant of maternity leave, which reads as under:-

“103. Maternity Leave – Maternity leave may be granted to a female Government Servant with less than two surviving children upto a period of 135 days from the date of its commencement. However, if there is no surviving child even after availing it twice Maternity Leave may be granted on one more occasion. During such period she will be entitled to leave salary equal to pay drawn immediately before proceeding on leave. Such leave shall not be debited to the leave account but such entry should be made in the service book separately.”

8. A perusal of the aforesaid Rule 103 of the Rules of 1951 indicates that ‘maternity leave’ may be granted to a female “Government Servant” for a period of 180 days twice.



9. The meaning of the word “maternity leave” in common parlance is where a female employee is given a certain amount of time off, after birth of the baby to take care of her newborn and to develop the bond of love, care and affection with the new little one on arrival in the family. During this period, the job of the employee is protected and such employee receives the pay and salary of the maternity leave time.

10. Maternity means the period during pregnancy and shortly after the child's birth. If maternity means motherhood, then the object of maternity leave is to protect the dignity of motherhood by providing for full and healthy maintenance of the woman and her child. Maternity leave is intended to achieve the object of ensuring social justice to women as the motherhood and childhood, both require special attention. Not only are the health issues of the mother and the child considered while providing for maternity leave, but the leave is provided for creating a bond of affection between the two.

11. Right to life under Article 21 of the Constitution of India includes the right to motherhood and also the right of every child to full development. Looking to the peculiar facts and circumstances of the case, when this fact is not in dispute that the petitioner was pregnant and gave birth to a child as well as applied for maternity leave on earlier occasion before the previous school and the same was granted and after joining at the new school, she requested the authorities concerned for grant of maternity leave, but when no heed was paid, therefore, under these compelling circumstances, she was left with no other option





but to request the authorities for grant of child care leave for the upbringing and providing proper care to the infant.

12. Considering the overall facts and circumstances of the case, this Court deems it just and proper to allow the instant writ petition by issuing directions to the respondents to grant maternity leave to the petitioner w.e.f. 01.09.2023 for a period of 180 days, in terms of the Rules of 1951 and this period shall not be considered as a break in service of the petitioner and therefore, entire salary and all consequential benefits arising therefrom be extended to the petitioner.

13. The child care leave, so availed by the petitioner, be excluded from the maternity leave and such period be credited to the child care leave account of the petitioner.

14. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

30/Aayush Sharma

