



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



S.B. Civil Writ Petition No. 19649/2026

CNR: RJHC020941942026 | URN: CW / 41053U / 2026

Suman Meena Wife Of Shri Hemaraj Meena, Aged About 33 Years, Resident Of Village Khirkhirda, Post Balouti, Tehsil Sapotra District Karouli Rajasthan 322202. Presently Working As Senior Teacher In P.m Shri Government Senior Secondary School Gangapur City-217850. Employee Id- Rjbw201408024981

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of School Education, Government Secretariat, Jaipur, Rajasthan.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. Principal, Government Senior Secondary School Gangapurcity, District Sawaimadhopur-217850.

-----Respondents

For Petitioner(s) : Ms. Sanskriti Gautam

JUSTICE ANOOP KUMAR DHAND

Order

29/09/2026

Reportable

Motherhood is the mother of all civilizations. Family as a social institution is considered as the backbone of the society. No civilization could have passed without recognizing the power of mother and often figuratively projected her as Goddess. A child born to a family sees the world first through the eyes of his/her mother and develops his/her skills through the vision of the family.



“Mother is she who can take place of all others, but whose place no one else can take. The bond between mother and her child is special one. It remains unchanged by time or distance. It is the purest love-unconditional and true. It is understanding of any situation and forgiving any kind of mistakes....”

1. By way of filing the instant writ petition, a challenge has been led to the impugned order dated 15.09.2026, passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur (for short, 'the Tribunal'), by which the appeal submitted by the petitioner against her transfer order dated 07.07.2026 has been rejected.

2. Learned counsel for the petitioner submits that the petitioner was appointed to the post of Senior Teacher and at the time of passing of the impugned transfer order, she was posted at PM Shri Government Senior Secondary School, Gangapur City, District Sawaimadhopur. However, she has been transferred to Government Girls Senior Secondary School, Masalpur, District Karauli vide impugned transfer order dated 07.07.2026. Counsel submits that the petitioner has given birth to a child on 13.05.2026, only two months before passing of the impugned transfer order dated 07.07.2026. Counsel submits that the petitioner's child is still an infant and the petitioner would not be in a position to take care of the new born infant at the proposed transferred place of posting. Counsel submits that even the maternity leave was not granted to the petitioner on a technical count that previously on two occasions, the petitioner has already availed maternity leaves from 02.07.2020 to 28.12.2020 and from 13.07.2021 to 08.01.2022. Counsel submits that with regards to the period of the first maternity leave granted to the petitioner,



she gave birth to a child, who unfortunately passed away shortly thereafter. Even though the petitioner was not having two children at the time of birth of the new born baby in May, 2026, since the first child passed away soon after birth i.e. on 02.07.2020, but on the ground of technical reasons of having already availed two maternity leaves, this time maternity leave was not granted to the petitioner. Counsel submits that on humanitarian grounds, a prayer was made before the Tribunal for staying the transfer order and quashing the same, but instead of looking into the aforesaid grounds, the appeal submitted by the petitioner against the impugned transfer order has been rejected. Hence, interference of this Court is warranted.

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

4. It is submitted that the petitioner has recently delivered a child and is presently having a two-month-old infant in her lap, who is fully dependent on the petitioner for breast feeding. The newly born baby is under intensive care and requires constant motherly care and attention. Despite bringing these facts to the notice of the respondents, the respondents have transferred the petitioner to a far off place from her present place of posting vide impugned transfer order dated 07.07.2026, which is not only against the Transfer Policy of the State Government but also against the principles of humanity and Article 21 of the Constitution of India.

5. It is further submitted that the petitioner has already submitted a representation and the same is lying pending for consideration before the competent authority.



6. It is a settled position of law that transfer is an incident of service and is an exigency of service. Ordinarily, Courts are reluctant to interfere unless mala-fide or grave hardship is shown.

7. However, the exigency of service is not an absolute shield. The law carves out an exception where the transfer causes extreme hardship such as critical medical needs of an infant child.

8. When an infant is involved, the legal lens shifts from administrative efficiency to the best interests of the child. The welfare of the child is the paramount consideration of the Court.

9. For healthy growth of a child, the love and tenderness of mother is most required, particularly when the child is in infancy.

10. It is general perception that as far as possible, a woman employee having infant child below one year should not be disturbed and her case should be considered sympathetically.

11. Apart from that, the right of a newly born infant for motherly care, nutrition and development is implicit in Article 21 and Article 15(3) of the Constitution of India and is also protected under the Maternity Benefit Act, 1961.

12. This Court is conscious of the fact that the relationship between a mother and her newly born infant of two months is not merely biological but is a fundamental, natural and constitutional right of highest pedestal. The initial days including the first six months of exclusive breast feeding are universally recognized by World Health Organization and UNICEF as most critical for physical, mental and emotional development of the child. The mother is the sole source of nutrition, warmth, security and emotional bonding for the infant.



13. The right to motherhood, right to breast feed and right of infant to be breast fed and nurtured have been held to be part of Right to Life with dignity under Article 21 of Constitution. Forcible separation of a two-month-old child from mother due to transfer to a far off place would amount to deprivation of this invaluable right, both for mother and child, and would cause irreparable psychological trauma, insecurity, malnutrition and health hazard to the infant, which cannot be compensated in any manner. The State as a model employer is expected to protect this sacred bond and not to break it by mechanical transfer.

14. Child care, maternal care and infant welfare are integral part of social justice. In the case of female employees who are nursing mothers, a more humane, compassionate and sensitive approach is required. The emotional bonding, skin-to-skin contact, breast feeding and constant presence of mother is essential for development of trust, affection, immunity and personality of infant. Transferring the mother at this tender stage of 2 months would be against the very spirit of Maternity Benefit Act, 1961 as amended in 2017, Child Care Leave norms, and International Convention on Rights of the Child.

15. Keeping in view the fact that the petitioner is having a two-month-old newly born baby/infant in her lap and the baby is fully dependent on the mother, and considering the biological, emotional and nutritional necessities of an infant and the strong emotional bonding between mother and child, this Court deems it appropriate to direct the respondents to consider the case of the petitioner sympathetically and humanely, rather than mechanically.



16. Accordingly, the present writ petition is disposed of with the following directions:

(i) The petitioner shall file a fresh representation along with certified copy of this order, birth certificate / proof of age of the infant child, and medical certificate showing requirement of breast feeding and bonding, before the competent authority / Respondents within a period of seven days from the date of receipt of certified copy of this order.

(ii) The competent authority shall consider the representation of the petitioner sympathetically and with a humane approach, in the interest of the two-month-old newly born infant baby and its strong emotional bonding, nutrition, health and welfare with the mother, keeping in view the state transfer policy, child care norms, maternity benefit act, article 21 of the Constitution of India regarding welfare of infant child as paramount consideration, and pass a reasoned and speaking order within a period of five weeks from the date of receipt of the aforesaid representation.

(iii) Till the representation of the petitioner is decided, the effect and operation of the impugned transfer order dated 07.07.2026 qua the petitioner shall remain stayed for a period of six weeks and she shall be allowed to continue at her present place of posting for the aforesaid period of six weeks.

(iv) It is made clear that this order has been passed in the peculiar facts and circumstances of the case,





considering the welfare, rights and emotional bonding of the two-month-old infant child with mother, and the same may not be treated as a precedent.

17. It appears that no policy has been formulated by the Government with regard to the issue involved in the instant petition, hence, it is high time for the Government to bring appropriate Transfer Policy / Legislation in this regard to deal with such kind of exigencies of female Government employees who have recently delivered and are having infant child in lap. In absence of such policy, grave hardship is caused to both mother and infant.

18. This Court further directs the Registry that copy of this order may be forwarded to the Ministry of Law and Justice, Union of India, New Delhi as well as to the Principal Secretary, Department of Law and Legal Affairs, Government of Rajasthan, Jaipur, for such action as, they may deem fit to take in this behalf.

19. With the aforesaid directions, the writ petition stands disposed of. Stay application also stands disposed of. No order as to costs.

(ANOOP KUMAR DHAND),J

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