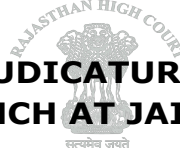




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 19767/2025

Pooja Soni W/o Love Swarnkar, Aged About 33 Years, R/o House No. 4 Radha Krishna Colony, 1 Jagatpura, Jaipur, Pin Code-302017.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Primary Education Department, Government Secretariat, Jaipur, Rajasthan.
2. Director, Department Of Elementary Education And The Department Of School Education, Government Of Rajasthan, Bikaner, Rajasthan.
3. District Education Officer, Ajmer, Rajasthan.
4. Block Education Officer, Arahi, Ajmer, Rajasthan.
5. Panchayat Elementary Education Officer, Arahi, Ajmer Rajasthan.
6. Principal, Government Senior Secondary School, Kakalwara Arahi, Ajmer Rajasthan.
7. Headmaster, Government Upper Primary School, Mothi, Arain Ajmer, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Saurabh Dubay
For Respondent(s)	:	--

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

29/04/2026

1. On the request of the learned counsel appearing on behalf of the petitioner, the present writ petition is taken up and heard for final disposal at the admission stage.
2. The present writ petition has been filed challenging the rejection of Child Care Leave (CCL) applied for by the petitioner and the initiation of proceedings vide notices dated 13.04.2026, 26.04.2026 & 29.04.2026 (Annex.1A) issued under Rule 86 of the Rajasthan Service Rules, 1951 (hereinafter referred to as 'the



Rules of 1951'), whereunder action was proposed for treating the absence as unauthorized absence.

3. The case of the petitioner is that she is working as a teacher and, as per Rule 103(c) of the Rules of 1951, an eligible person is entitled to avail CCL of a maximum period of two years, and that the grant of such leave is at the discretion of the employer. In terms of the same, she has submitted an application for grant of CCL. Before the leave was sanctioned, the petitioner absented herself from duty with the hope of grant of leave. It is also the grievance of the petitioner that the Headmaster, who was acting vengefully, granted similar leave to another teacher who applied subsequent to the petitioner, whereas the petitioner was not granted such leave.

4. To answer such contentions, it is advantageous to refer to Rule 103(c) of the Rules of 1951, which is reproduced hereunder:

"103C. Child Care Leave. – [(1) A female Government servant may be granted Child Care Leave by an authority competent to grant leave, for a maximum period of two years, i.e. 730 days during her entire service for taking care of her two eldest surviving children whether for rearing or for looking after any of their needs, such as examination, sickness, etc.

Explanation: For the purpose of this rule 'Child' means, –

(1) single male Government servant means an unmarried or widower or divorcee Governmetn servant.

(2) 'child' means,-

(a) a child below the age of eighteen years; or

(b) a child upto the age of twenty-two years with a minimum disability of forty percent as elaborated in the Ministry of Social Justice and Empowerment,



Government of India, notification number 16-18/97-NI. I dated 01.06.2001.]

(2) Grant of Child Care Leave under this rule shall be subject to the following conditions, namely: –

- i. During the period of Child Care Leave, a female Government servant or a single male Government servant, as the case may be, shall be entitled to leave salary for the first three hundred and sixty five days equal to one hundred percent of pay drawn immediately before proceeding on leave and equal to eight percent of the pay for the next three hundred and sixty five days.*
- ii. Child Care Leave may be combined with leave of any other kind due and admissible.*
- iii. Application for Child Care Leave, in the form specified by the State Government, shall have to be submitted to leave sanctioning authority well in time for sanction.*
- iv. Child Care Leave cannot be claimed as a matter of right. Under no circumstance can [any female Government servant or single male Government Servant, as the case may be,] proceed on Child Care Leave without prior approval of the leave sanctioning authority.*
- v. Child Care Leave shall not be granted under any circumstances [to a female Government servant or single male Government servant, as the case may be, who] remains on an unauthorised absence from duty and applies for it thereafter.*
- vi. Leave already availed or being availed of by [a female Government servant or single male Government servant, as the case may be,] shall, under no circumstances, be converted into Child Care Leave.*
- vii. Child Care Leave shall not be debited against any other kind of leave account. The leave account of Child Care Leave shall be maintained in the form*



specified by the State Government, from time to time and it shall be pasted in the service book.

- viii. Leave sanctioning authority can deny the leave applied for on the ground of proper and smooth functioning of Government work or achievement of departmental targets.*
- ix. [It shall not be granted for more than three spells in a calendar year. A spell, which begins during a calendar year and ends in the next calendar year, shall be deemed as a spell pertaining to the calendar year in which the spell begins. Child care leave shall not be granted for a period less than five days at a time.]*
- x. It shall ordinarily not be granted to a Probationer trainee during the probation period. However, in special circumstances if the leave is granted during the probation period then the probation period shall be extended by the period equivalent to the period for which the leave has been granted.*
- xi. The leave is to be treated like the Privilege Leave and sanctioned as such.*
- xii. Sunday and holiday can be prefixed or suffixed to Child Care Leave. Consequently, Sunday, Gazetted holiday(s) or any other holiday(s) notified by the Government falling during the period of leave would also count for Child Care Leave, as in the case of Privilege Leave.*
- xiii. A certificate of dependency of the disabled Child will be obtained from [the female Government servant or single male Government servant, as the case may be,] before sanctioning Child Care Leave along with document of disability issued by the competent authority/Medical Board.*
- xiv. Child Care Leave in connection with the examination or illness of a minor child living abroad, shall be sanctioned on the basis of a certificate issued in this regard by the educational institution concerned or by an authorised doctor, as the case may be. The*



[female Government servant or single male Government servant, as the case may be, who] avails Child Care Leave in respect of a minor child living abroad, shall have to comply with all the rules/instructions for proceeding on ex-India leave and eighty percent period of such leave shall have to be spent in the country where the child is living.

- xv. *Before Child Care Leave is sanctioned relating to the examination of a minor child, who lives in a hostel in India or abroad, [the female Government servant or single male Government servant, as the case may be,] shall have to clarify how the needs of such a minor child will be looked after by her."*

5. A reading of the above provision makes it clear that leave is not a matter of right and is at the discretion of the employer, and the maximum leave which can be granted is two years, subject to fulfilling certain conditions. The Rule further states that a person who has unauthorizedly remained absent, such period of absence shall not be supplemented with CCL. The Rule further clarifies that absence from duty prior to the grant of CCL is unauthorized absence. The petitioner could not have absented herself from duty without the grant of leave.

6. In the present case, the petitioner absented herself from duty after having made an application for grant of leave, and such conduct, as per Rule 103 of the Rules of 1951, amounts to unauthorized absence and cannot be compensated by the grant of CCL under Rule 103(c) of the Rules of 1951, as the Rule specifically prohibits the same.

7. The further grievance of the petitioner is that another teacher was granted leave while the petitioner was not granted the same is not a justification for absence. If she had faced such



unequal treatment, she could have availed of the remedy provided against such conduct of the appropriate authority empowered to grant leave, and that does not justify the employee remaining unauthorizedly absent.

8. Rule 86 of the Rules of 1951 deals with action relating to unauthorized absence. There is also lapse on the part of the competent authority in not disposing of the application filed by the petitioner for grant of leave.

9. Considering the overall circumstances, this Court finds that no fault can be found with the rejection of CCL leave; therefore, the present writ petition is ***disposed of*** as follows:

- i. This Court is not inclined to interfere with the order rejecting CCL leave;
 - ii. The respondents are directed to consider the case of the petitioner for grant of extraordinary leave without pay, as the petitioner was under a bona fide impression remained absent from duty. It is also stated that such an application is already filed, therefore, the respondents are directed to consider the same positively;
 - iii. Till such request is considered, the respondents shall not proceed with any action pursuant to the notices dated 13.04.2026, 26.04.206 & 29.04.2026 (Annex.1A) issued under Rule 86 of the Rules of 1951.
10. All pending application(s), if any, shall also stand disposed of.

(MUNNURI LAXMAN),J