



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 1422/2025

Jyoti Parmar D/o Shri Hari Prashad Parmar, Aged About 33
Years, R/o Village Pantli Post Punali District Dungarpur Rajasthan
314028

-----Petitioner

Versus



1. State Institute Of Health And Family Welfare (Sihfw),
Through Its Director, Jhalana Doongi Colony, Ghat Ki
Guni, Jaipur, Rajasthan 302004

2. Joint Director, Medical And Health Services, Zone
Jodhpur.

Chief Medical And Health Officer, Dungarpur.

-----Respondents

For Petitioner(s)	:	Mr. Ripudaman Singh
For Respondent(s)	:	Mr. Tanuj Jain for Mr. Mukesh Dave – AGC

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

23/01/2025

1. Standing at crossroads, torn between her role of motherhood and breadwinner, the petitioner seeks indulgence herein to help her save her livelihood. Her inability to join duty within the stipulated time, owing to the advanced stage of her pregnancy (third trimester), has compelled her to approach this Court. She, inter alia, seeks an extension of her joining date to safeguard both her career and her family's future. Respondents have since declined to do the needful, she now faces the risk of losing her hard-earned job, despite successfully competing against

thousands of candidates nationwide to secure the position of Nursing Officer.

2. Dilemma of the petitioner is owing to the condition imposed in the posting/joining order dated 09.01.2025 directing her join duty on 24.01.2025, failing which, her appointment on the post in question shall be automatically cancelled. She had applied and competed pursuant to an advertisement dated 05.05.2023 for selecting 6,981 Nursing Officers in the state.

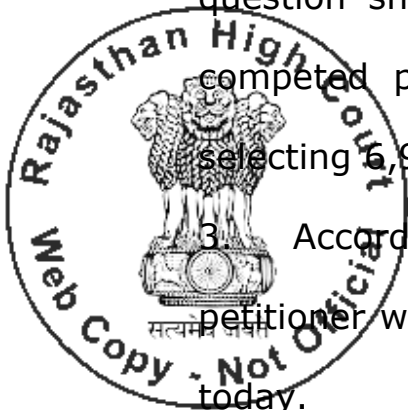
3. According to her medical report dated 28.11.2024, the petitioner was then 22 weeks pregnant i.e. about 30 weeks as on today.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

5. Learned counsel for the petitioner argues that, given her current condition, the petitioner had submitted about 100 preferences within the Udaipur division where vacancies are available and she could be accommodated. However, she has been posted in Barmer District, which is over 500 kilometers away from her residence, and she had never opted for the same. It is nothing but arbitrariness and non application of mind by the competent authority, he contends.

5.1. Whereas, learned counsel for the respondents, who appears on advance service of the petition, opposes the petition urging that in matters of transfer/posting this Court ought not to interfere, same being integral part of service conditions arising out of administrative exigency.

6. Given the peculiar factual narrative in the petition, duly supported with affidavit, it so appears to me that the extenuating

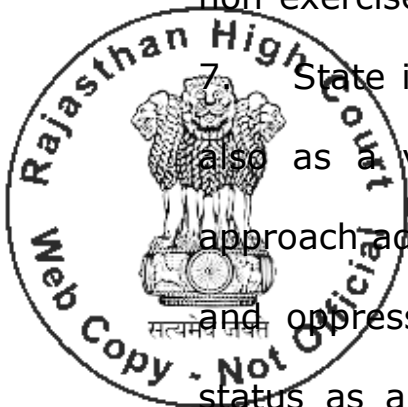


circumstances of the petitioner have been given complete short shrift by directing her to join services on or before 24.01.2025 at a place 500 kms. away from where she resides. Same is nothing but reflective of lack of empathy and compassion on the part of respondents and is highly arbitrary and mechanical exercise or non-exercise of mind, as the case may be.

7. State is not only supposed to act as a model employer, but also as a virtuous litigant. Whereas, in the instant case, the approach adopted by the respondents instead is rather obstructive and oppressive in nature and a complete misuse of dominant status as an employer, apart from abuse of power, to say the least.

8. The petitioner had submitted 100 preferences for postings within the Udaipur division, which did not include Barmer district, and yet, knowing that she in third trimester of her maternity, she has been assigned a posting over 500 kilometers away from her residence. There is no indication that suitable vacancies in the Udaipur division, as per her preferences, were unavailable. Forcing her to relocate that far in her current condition poses serious health risks, violates her right to health and against the very basic principles of being humane, and disregards her right to safe working conditions during pregnancy and demonstrative of lack of sensitivity.

9. I am of the view that, by imposing such unreasonable conditions that threaten her employment if she is unable to comply due to legitimate personal and medical reasons, it infringes on petitioner's Right to Livelihood enshrined under Article 21 of the Constitution.



10. In the premise, the writ petition is disposed of with a direction to the respondents to reassign an alternative place of posting to the petitioner anywhere in Udaipur so as to enable her to discharge her duties without being fearful of losing her livelihood. Needful exercise be carried out within a period of 30 days from the date of receipt of web-print of this order.

11. Till a decision as aforesaid is taken, the period of joining the duty, qua the petitioner, shall be treated as extended and no adverse action shall be taken against her.

12. Pending application(s), if any, stand(s) disposed of.



(ARUN MONGA),J

49-AK Chouhan/-

Whether fit for reporting : Yes / No