

(2010) 11 RAJ CK 0118
In the Rajasthan High Court
Case No : Civil Writ Petition No. 13654 of 2009

Administrator, Sarvajanik Acharya Sanskrit Mahavidhyalaya	APPELLANT
Vs	
Rajasthan Non Government Educational Institutions Tribunal and Others	RESPONDENT

Date of Decision : 03-11-2010

Acts Referred:

Rajasthan Civil Services (Pension) Rules, 1996 — Rule 89
Rajasthan Non-Government Educational Institutions Act, 1989 — Section 21

Citation : (2010) 11 RAJ CK 0118

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—Instant petition has been filed by the management of the institution assailing order of the Rajasthan Non-Government Educational Institutions Tribunal dt. 05/09/2006.

2. The Respondent No. 2, who served the institution as a Teacher for almost forty years and stood retired from service on attaining the age of superannuation in August, 2002, filed application u/s ec.21 of the Rajasthan Non-Government Educational Institutions Act, 1989 before the Education Tribunal in which it was prayed that he is entitled for Gratuity, Leave Encashment, fixation of pay in the Revised Pay Scale Rules, 1998 and so also the arrears pursuant thereto.

3. The learned Tribunal, after hearing counsel for the parties, allowed the application preferred by the Respondent No. 2 and finally 2 observed that he is entitled for Gratuity, Leave Encashment and so also the fixation of Pay under the Revised Pay Scale Rules, 1998 and the arrears pursuant thereto shall be paid alongwith interest at the rate of 9% per annum which has been assailed in the instant petition.

4. The main thrust of the submission of counsel for Petitioner is that the institution is 80% aided and in terms of the judgment impugned, Petitioner is under obligation to pay 20% of the arrears as determined by the Tribunal and rest 80% is to be paid by the Government but despite representation being made to the State Government in regard to the payment of 80% amount as per the orders of the Education Tribunal, it has not been released, for which the Petitioner cannot be held responsible for non-compliance of the order of the Education Tribunal.

5. However, the facts ultimate remains that the Respondent No. 2-employee, who retired from service in August, 2002, has not been paid even a single penny towards the retiral dues in terms of the order of the Education Tribunal which was to be paid by the Petitioner institution way back in 2006 while disposing of the appeal preferred by the Respondent No. 2- employee on 05/09/2006. It is really a sorry state of affairs that the legitimate grievance 3 of a retired employee has not been meted out by the institution by keeping the litigation pending in this Court for almost four years by now.

6. The submission made that, since the Government has not released 80% amount in terms of the aid extended to the institution, is wholly without substance for the reason that the institution is under obligation to make payment of retiral dues in terms of the order of the Education Tribunal and if the payments made are approved expenditures, the institution is always at liberty to file application before the Government for releasing of such amount in terms of the aid extended by the Government, which in the instant case case, is 80%. But, the fact is that the Petitioner has not paid even its own contribution, as per its own saying, despite the order of the Education Tribunal passed way back in 2006. Apart from it, the findings recorded by the Education Tribunal under the order impugned, has not been assailed on merits. However, it will be relevant to observe that all the issues raised before the Education Tribunal have already been examined by this Court and held that the employee/teacher is entitled for such retiral dues under law.

7. Counsel for Petitioner further submits that the interest, which has been awarded by the 4 learned Education Tribunal is on higher side.

8. The submission made is without merit for the reason that even under Rule 89 of the Rajasthan Civil Service (Pension) Rules, 1996, if there is a delay in making the payment of pension or post retiral benefits, interest at the rate of 9% has to be paid on such delayed payments.

9. This Court does not find any substance in the writ petition and the same deserves to be dismissed being devoid of merit. However, before parting with the order, this Court considers it appropriate to direct the Petitioner to comply with the order of the Education Tribunal within sixty days from today.

10. With the above directions, the writ petition stands dismissed.