

(2005) 07 RAJ CK 0044
In the Rajasthan High Court
Case No : Civil Writ Petition No. 678 of 2002

Brahmchari Madhyamik Vidyalaya

APPELLANT

Vs

Rajasthan Non Government Educational Institutions Tribunal
and Others

RESPONDENT

Date of Decision : 21-07-2005

Acts Referred:

Constitution of India, 1950 — Article 227
Rajasthan Non-Government Educational Institutions (Recognition, Grant-in-aid and Service Conditions etc. Rules, 1993 — Rule 80(2)
Rajasthan Non-Government Educational Institutions Act, 1989 — Section 16, 21, 21(2), 27

Citation : (2006) 1 RLW 65 : (2005) 4 WLC 401

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : N.K. Maloo, for the Appellant; MB. Sharma and Arun Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—The petitioner seeks to quash the order dated January 9, 2001 of Rajasthan Non Government Educational Institutions Tribunal Jaipur whereby the petitioner has been directed to make payment to respondent of the benefits of revised pay scale and selection scale of 9, 18 and 27 years of service and the amount of gratuity along with the interest 12%.

2. Learned counsel appearing on behalf of the petitioner vehemently canvassed that the application of the respondent u/s 21 of the Rajasthan Non Government Educational Institutions Act, 1989 (for short "1989 Act") was not maintainable because the 1989 Act came into force w.e.f. April 1, 1993 and the respondent had already retired on November 30, 1992. Reliance is placed on the Royal Boot House and Others Vs. State of Jammu & Kashmir and Others, .

3. I have pondered over the submissions. In my considered opinion even if the

respondent employee had retired on November 30, 1992 the application u/s 21 of the 1989 Act was maintainable. In view of the provisions contained in sub section (2) of Sections 21, 27 and 16 of the 1989 Act gives a mandate to the aided institutions to grant equal pay allowances and other benefits to its employees equal to the government employees. Besides the cause of action to receive the amount of gratuity is recurring and the provisions contained in Rule 80(2) of Rajasthan Non Government Educational Institutions Rules, 1993 are applicable to the petitioner therefore he is entitled to claim the amount of gratuity as admissible under Payment of Gratuity Act, 1972. In *Management of Goodyear India Ltd. v. K.G. Devessar* (supra) Their Lordships of Supreme Court indicated that all persons whose employment came to end after coming into force of 1972 Act were entitled to payment of gratuity for the period during which they satisfied the definition of employee. The respondent employee also got retired after coming into force of Payment of Gratuity Act, 1972 and he is entitled to receive the payment of gratuity.

4. The writ petition in my opinion devoid of merit since the Tribunal has proceeded within its parameters. In *Sadhana Lodh Vs. National Insurance Company Ltd. and Another*, Three Judge Bench of Hon"ble Supreme Court in para 7 indicated thus:-

The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.

5. For these reasons, the writ petition stands dismissed without any order as to costs.