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**(2013) 04 RAJ CK 0025**

**In the Rajasthan High Court**

**Case No : Civil Special Appeal (W) No. 817 of 2000**

Managing Committee, Smt. Gulabi Devi Bidawatjika Girls  
Higher Secondary School

**APPELLANT**

**Vs**

State of Raj.

**RESPONDENT**

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**Date of Decision : 02-04-2013**

**Acts Referred:**

Rajasthan Non-Government Educational Institutions Act, 1989 — Section 21

**Citation : (2013) 3 CDR 1563**

**Hon'ble Judges : Veerendr Singh Siradhana, J;Ajay Rastogi, J**

**Bench : Division Bench**

**Advocate : Anoop Dhand, for the Appellant;**

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**Judgement**

1. This intra-Court appeal has been filed by the Managing Committee of aided institution receiving 90% grant-in-aid from the State Government. Facts in nut-shell relevant for the present controversy are that the respondent employee submitted application u/s. 21 of the Rajasthan Non-Government Educational Institution Act, 1989 ("Act, 1989") claiming the benefit of selection scale after completion of 9-18-27 years of service & also the gratuity under the Act, 1989.

2. The learned Tribunal after adjudicating the dispute vide its order dated 31.8.1999 held that the employee was entitled for selection scale in terms of circular of the State Government dt. 25.1.1992 and at the same time is also entitled for gratuity along with interest @ 12% per annum and that came to be assailed by the appellant Managing Committee by filing CWP-616/2000 but that was dismissed by the learned Single Judge vide order dt. 29.3.2000 upholding the directions of the learned Tribunal and that has been assailed by the appellant Managing Committee by filing instant intra-Court appeal.

3. At the outset, as regards the question whether the employees of aided institution are entitled for gratuity, selection scale & leave encashment, the issue has been settled by the Apex Court in Rajasthan Welfare Society Vs. State of Rajasthan, and also by the larger Bench of this Court in a case reported in 2002

(2) DNJ (Raj.) 613 as regards entitlement of leave encashment the matter travelled to the Apex Court reported in 2005(1) WLC (SC) Civil 301, thus, the controversy as regards entitlement is no more res-integra.

4. The main thrust of submissions of counsel for appellant is that the institution is receiving 90% aid from the State Government and unless the aid is released by the State Government for the purpose of making payment towards gratuity/selection-scale/leave encashment, in absence whereof the institution is not under obligation to make payment.

5. The submission made is without substance for the reason that the appellant which is receiving aid from the State Government, in the instant case is 90%, is under legal obligation to pay the gratuity, selection scale, leave encashment, etc. to the employees on their retirement and as regards the grant-in-aid which the institution is entitled for under the law, they are at liberty to move application, if so advised, and if such application is filed, it is expected from the authority to decide the same expeditiously in accordance with law. Consequently, we do not find any substance in the instant appeal, the same accordingly stands dismissed. We would like to observe that the appellant-institution must make the payment in terms of order of the learned Tribunal within a period of three months at the same time, if the appellant-institution fails to make the payment within the time stipulated, the respondent employee will be at liberty to file application in this Court, if so advised, for initiating proceedings for the alleged disobedience.