

**(2018) 03 RAJ CK 0184**

**In the Rajasthan High Court**

**Case No : Spl. Appl. Writ No. 178, 712, 667 of 2017**

**Mohan Giri Goswami @APPELLANT@Hash Managing Committee,  
Rajasthan Mahil Parishad**

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**Date of Decision : 13-03-2018**

**Acts Referred:**

**Citation : (2018) 03 RAJ CK 0184**

**Hon'ble Judges : PRADEEP NANDRAJOG, CJ; VINIT KUMAR MATHUR, J**

**Bench : Division Bench**

**Advocate : Ashvini Swami, Om Prakash, Sunil Joshi, Rajesh Panwar, Akhilesh Rajpurohit**

**Final Decision : Dismissed**

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## **Judgement**

Pradeep Nandrajog, C.J

1. The reasoned order dated 9th November, 2016 is challenged in D.B.Civil Special Appeal (Writ) No.178/2017 and D.B.Civil Special Appeal (Writ)

No.712/2017. Order dated 19.11.2016 following the reasons in the order dated 9.11.2016 is challenged in D.B.Civil Special Appeal (Writ)

No.667/2017. Thus, for purposes of the three appeals we would be concerned with the reasons given by the learned Single Judge in the order dated

9th November, 2016.

2. The respondents were the writ-petitioners and were aggrieved by a decision against them by the Rajasthan NonGovernment Educational Institutions

Tribunal whereby on amount of gratuity, leave encashment and arrears of salary, the latter payable as per the Rajasthan Civil Services (Revised Pay

Scales) Rules, 2008, interest @ 6% per annum was directed to be paid.

3. Noting that the respondents were aided educational institutions and because the State Government delayed disbursement of the grant-in-aid the

learned Single Judge has set aside the decision of the Tribunal concerning payment of interest on late payment of leave encashment and arrears of salary. Interest payable on the gratuity has been upheld because the liability to pay gratuity was not connected with the grant-in-aid to be paid by the State.

4. Grievance of the appellants in the appeals is to interest being denied to them on late payment of leave encashment and arrears of salary as per the Revised Pay Scales Rules of the year 2008.

5. Learned counsel for the appellants urges that in view of the law declared by the Supreme Court in the decision reported as AIR 1985 SC 356 State of Kerala V/s M.Padmanabhan, the right to compensation for interest emerges from the fact of the late payment. Similar view was taken in the decision reported as (2008) 3 SCC 44 S.K.Dua V/s State of Haryana & anr.

6. The appellants were teachers in the institutions set up by the respondents who were receiving the grant-in-aid.

7. The Government took a decision that teachers appointed by aided institutions after following the procedure of law and in respect of which teachers

grant-in-aid is being disbursed by the State to the aided institutionsÂ could apply for absorption in Government service and if inducted in Government

service it would be treated as a case of fresh employment under the State. Thus, all such teachers till they were inducted in service under the State

were to be paid by the respondents-institutions and needless to state the grant-in-aid had to be made by the State Government. At the time of induction

in service directly under the State the leave which had accumulated in the leave account of the teachers had to be paid for. When said decision was

taken in the year 2010 the aided institutions were in correspondence with the State Government to enhance the grant-in-aid so that the salary to the

teaching staff as per the Revised Pay Scales Rules could be paid. The Government did not pay any heed.

8. A number of aided educational institutions preferred writ petitions seeking direction against the State to disburse the grant-in-aid so that salary at

enhanced rates could be paid. The respondents also filed a writ petition. The writ petitions filed by some institutions were disposed of on 5.12.2011.

The State was directed to disburse the necessary funds so that the leave encashment and arrears of salary could be paid.Â Request by the

institutions that on the delayed period of the disbursement interest be awarded was not granted. The writ petition filed by the respondents was likewise allowed on 9.4.2012.

9. The lead decision is in D.B.Civil Writ Petition No.4812/2011. The State Government challenged the said decision by filing SLP(C) No.12497/2013 which was withdrawn on 15.7.2013 with liberty to seek a review.

10. In the meanwhile it so happened that the State Government had preferred a Misc.Application No.91/2013 seeking recall of the decision dated

5.12.2011 which was dismissed by the Division Bench on 15.7.2013.

11. The State Government filed SLP (C) No.20877/2013 against the order dated 15.7.2013 passed by the Division Bench of this Court dismissing

Misc.Application No.91/2013. The said SLP was dismissed on 9.12.2013.

12. The State Government preferred Misc.Applications No.162/2013, 232/2013 and 233/2013 seeking recall of the order dated 5.12.2011. The said

applications were dismissed by the Division Bench of this Court on 30.1.2014.

13. On account of non-compliance of the orders passed by the Division Bench against the State Government to disburse the grant-in-aid so that salary

as per the Revised Pay Scales Rules and leave encashment dues could be paid to the teachers who had left the aided institutions and had joined

Government service, contempt petitions were filed in which the State informed that the dues being large it would like to verify the claims. On

24.7.2014, the Division Bench directed the State to make necessary compliance of the directions given and submit compliance report. On 10.3.2015, it

was directed that necessary verification be made and upon completion of the verification the money would be deposited directly in the account of the

teachers.

14. The State Government did not verify the claims, raising all kinds of objections. On 26.5.2015 the Division Bench passed an order directing to verify

the details and upon such verification, the amount shall be disbursed to the persons concerned as per their entitlement. The State challenged the said

order dated 26.5.2015 before the Supreme Court and filed SLP(C) No.18229/2015 which was dismissed on 12.10.2015. Against the said order review

petition filed, being No.1851/2016, was dismissed by the Supreme Court on 27.7.2016.

15. It was only thereafter that the State disbursed the necessary funds to the aided institutions who in turn passed on the same to the teachers.

16. It is in the backdrop of the aforesaid facts that the claim of the teachers for grant of interest on delayed payment of enhanced salary and leave encashment has to be considered.

17. We note that as regards gratuity the aided institutions have agreed to pay interest @ 6% per annum for the period payment of gratuity was delayed.

18. The facts noted hereinabove clearly bring out that the aided institutions did their best to ensure timely payment to its employees. They fought tooth and nail with the State to obtain the grant-in-aid. The litigious facts aforementioned show that repeatedly the State obstructed the claim by these institutions. Thus, the aided institutions cannot be saddled with any liability to pay interest on the delayed payments qua the enhanced salary and leave encashment. If at all the liability would be that of the State. But there is no direction in any decision for the State to pay interest on the belated disbursement of the grant-in-aid.

19. In that view of the matter, the learned Single Judge has correctly held that on enhanced salary and leave encashment no interest is payable for the period of delay by the respondent institutions.

20. The law in the two decisions cited by learned counsel for the appellants would apply when the employer is solely responsible for the delayed payment.

21. In the instant case, the employer took all possible measures to ensure that the State releases the grant-in-aid within time and from that money enhanced salary as per the Revised Pay Scales Rules could be disbursed as also the amount due on encashment of the leave which had accumulated in the leave account of the teachers.

22. The three appeals are accordingly dismissed.

23. No costs.