

(2002) 08 RAJ CK 0049

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2542 of 2001

Smt. Pawan Bhargava

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-08-2002

Acts Referred:

Limitation Act, 1963 — Article 137

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

Citation : (2002) WLC 765 : (2002) 5 WLN 673

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiv Kumar Sharma, J.—The grievance expressed in the instant writ petition by the petitioner is that the relief of gratuity was declined to her by the Rajasthan Non-Government Educational Institutions Tribunal on the ground that it was barred by Article 137 of the Limitation Act. According to the learned Tribunal the application u/s 21 of the Rajasthan Non-Government Educational Institutions Act 1989 (for short "1989 Act") was filed after inordinate delay.

2. After having heard rival submission and on carefully scanning the material on record, I am of the view that the claim of the petitioner could not have been dismissed on the ground of limitation. It is well settled that the cause of action for the retiral benefits is recurring and the provisions contained in the Limitation Act are not applicable to such cases. Even on the ground of delay and laches the claim of retiral benefits cannot be dismissed.

3. Undeniably the respondent Mahesh Shikshan Sansthan is an aided institution and in view of the Rule 82 of 1993 Rules, the petitioner is entitled to the gratuity as admissible to her under Payment of Gratuity Act, 1972.

4. I do not find any force in the arguments of learned Counsel for the respondent that the petitioner got retired prior to enactment of the 1989 Act, she is not

entitled to the gratuity. Although the provisions contained in 1989 Act are prospective in nature but I find that they are applicable to those employees also who got retired prior to application of the said. There can be no discrimination between the employees who got retired prior to application of the 1989 Act and those who got retired after the application of the said Act.

5. For the reasons aforementioned, I allow the writ petition. The impugned order of the learned Tribunal dated 22.2.2001 is set aside. The respondents are directed while accepting the application u/s 21 of 1989 Act of the petitioner to pay the amount of gratuity to the petitioner in accordance with the rules. The petitioner shall however not entitled to the interest on the said amount. This order shall be complied with within 90 days from the date of receipt of copy of this order.

6. The writ petition stands allowed as indicated above. No order as to costs.