



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 6795/2022

1. Managing Committee, J.B. Shah Girls (PG) College, through Chairperson, Mandawa Mod, Jhunjhunu-333001
2. Secretary, J.B. Shah Girls (PG) College, Mandawa Mod, Jhunjhunu.

-----Petitioners

Versus

1. Dr. Vijay Laxmi Jain wife of Shri J.k. Jain, R/o 127, Savitri Path, Bapu Nagar, Jaipur.
2. Commissioner Department of College Education, Block - IV, Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur - 302015.

-----Respondents

For Petitioner(s) : Mr. Nitesh Pareek
For Respondent(s) : Mr. Aditya Singh, Dy.GC
Ms. Lipi Garg

JUSTICE ANOOP KUMAR DHAND

Order

03/03/2025

1. By way of filing the instant writ petition, a challenge has been made to the impugned order dated 07.02.2022, passed by the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur (for short 'the Tribunal') in application No.32/2019, by which the application filed by the respondent No.1 under Section 21 of the Rajasthan Non-Government Educational Institutions Act, 1989 (for short 'Act of 1989') has been allowed and the petitioner-management has been directed to grant two annual increments to the respondent No.1 with effect from the date when she received



her Ph.D Degree and after re-fixation of her payment, grant her all the remaining consequential benefits, accordingly.

2. Learned counsel for the petitioner submits that for the first time i.e. on 01.08.2016, an application was submitted by the respondent No.1 stating therein that after completion of her Ph.D Degree, the benefits of annual increments were not awarded to her. Counsel submits that after passing the Ph.D Degree, no such application was submitted by the respondent No.1 in the office of petitioner-management prior to 01.08.2016. Counsel submits that the requested benefits were not granted to the said respondent, as her services were absorbed by the State in the year 2011 in pursuance of the Rajasthan Voluntary Rural Education Service Rules, 2010 (for short the 'Rules of 2010'). Counsel submits that the respondent No.1 has approached the Tribunal after a great delay, hence, under these circumstances, she is not entitled to get benefits of arrears with effect from the year 1998, at most she is entitled to get arrears only for three years prior to filing of application, in pursuance of the directions issued by the Hon'ble Apex Court in the case of **Union of India & Ors. Vs. Tarsem Singh** reported in **2008 (8) SCC 648**.

3. Per contra, learned counsel for the respondent No.1 opposed the arguments raised by counsel for the petitioner-management and submitted that it was the duty of the petitioner-management to award her the benefits of arrears immediately after completion of her Ph.D Degree. Counsel submits that the respondent No.1 has completed her Ph.D Degree in the year 1998 and this fact was well within the knowledge of the petitioner-management. Time and again the respondent No.1 submitted representations for granting





her the benefits of annual increments but no heed was paid by the petitioner-management in this regard, hence, under these circumstances, the order passed by the Tribunal is justified which requires no interference of this Court. Lastly, she argued that the Division Bench of this Court in the case of **State of Rajasthan & Anr. vs. Management Committee Sh. Bhagwan Das Todi College** while deciding **D.B. Special Appeal (Writ) No.663/2015** decided on **06.11.2015** has discarded such objection of limitation raised by the petitioner-management.

4. Learned counsel for the respondent-State submits that the State has no liability to make payment of any arrears to the respondent No.1 for the services rendered by her prior to her absorption, in terms of Rule 5 of the Rules of 2010. Hence, under these circumstances, interference of this Court is warranted.

5. Heard and considered the submissions made at Bar and perused the material available on the record.

6. Perusal of the record indicates that the respondent No.1 was appointed as a Lecturer-Economics in the petitioner-department and during her tenure, she pursued her Ph.D and thereafter, she received her Ph.D degree in the year 1998. The documents annexed with her application before the Tribunal along with the application under Section 21 of the Act of 1989, indicates that for the first time, a demand was raised by the respondent No.1 for grant of arrears, in the year 2016, prior to that no written application was submitted by her with the petitioner-management along with the requisite degree.

7. Once this fact has been established on record that prior to 01.08.2016, neither any request was made by the respondent





No.1 nor any application in writing was submitted by her for grant of benefits of arrears after passing her Ph.D Degree, hence, there was no reason or occasion available with the Tribunal for issuing directions to the petitioner-management for grant of two annual increments to the respondent with effect from the date when she passed and completed her Ph.D Degree. The respondent No.1 remained silent from the date of passing of Ph.D Degree i.e. from the year 1998 till 2016. She herself woke up in the year 2016 and submitted an application for grant of benefits. Thereafter, she herself caused delay in approaching the Tribunal by way of filing an application under Section 21 of the Act of 1989. The Hon'ble Apex Court in the case of **Tarsem Singh (supra)**, has dealt with an identical situation and has held that if a claim is raised after a great delay, the arrears would be limited to three years prior to the date of filing of the writ petition.

8. In view of the above facts and circumstances of the case, the impugned order dated 07.02.2022 passed by the Tribunal is liable to be and is hereby modified as under:

(i) The respondent No.1 would be entitled to get the benefits of two annual increments with effect from 01.08.2016, when she submitted the first application for grant of benefit of arrears with the petitioner-management.

(ii) The petitioner-management is directed to make payment to two annual increments and accordingly, re-fixation of her salary and all consequential benefits be made to the respondent No.1 with effect from 01.08.2016 with interest.

9. In case, the petitioner-management faces any difficulty in complying with this order, a letter be written to the State





requesting the service book of the petitioner necessary exercise, with the assurance that the same would be returned after compliance of this order. Accordingly, the instant writ petition stands disposed of.

10. Stay application as well as all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

GARIMA /49

