

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

S.B. Civil Writ Petition No. 2771/2016

Smt. Shakuntala Patni W/o Shri R.K. Patni, Aged about 70 years,  
R/o 677, Adarsh Nagar, Jaipur.

----Petitioner

Versus

1. State of Rajasthan through its Principal Secretary, Department of College Education, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director / Commissioner, College Education, Govt. of Rajasthan, Shikshan Sankul, JLN Marg, Jaipur.
3. Indira Gandhi Balika Nikeaten College, Ardawata, Chirawa, District Jhunjhunu through Chairman, Indira Gandhi Balika Nikeaten College, Ardawata, Chirawa, District Jhunjhunu.
4. Principal, Indira Gandhi Balika Nikeaten College, Ardawata, Chirawa, District Jhunjhunu.
5. Smt. Sanno Lal, Principal, Indira Gandhi Balika Nikeaten College, Ardawata, Chirawa, District Jhunjhunu.
6. Vice-Chancellor, University of Rajasthan, Jaipur.

----Respondents

Connected With

S.B. Civil Writ Petition No. 17489/2015

1. Indira Gandhi Balika Niketan College, Ardawata, Chirawa, District Jhunjhunu through its Chairman.
2. The Principal, Indira Gandhi Balika Niketan College, Ardawata, Chirawa, District Jhunjhunu through its Chairman.
3. Smt. Sanno Lal, Principal, Indira Gandhi Balika Niketan College, Ardawata, District Jhunjhunu.

----Petitioner

Versus

1. State of Rajasthan through its Secretary, Department of College Education, Government Secretariat, Jaipur.
2. The Director/Commissioner, College Education, Jaipur (Raj.)
3. Smt. Shankuntala Patani W/o Shri R.K. Patani, Aged about 67 years, R/o 677, Adarsh Nagar, Jaipur.
4. The Vice Chancellor, University of Rajasthan, Jaipur.

----Respondent

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For Petitioner(s) : Mr. Rajendra Soni, Adv. &  
Mr. Nitin Soni, Adv. in SBCWP  
No.2771/2016  
Mr. Ashwani Jaiman in SBCWP  
No.17489/2015

For Respondent(s) : Mr. Aditya Singh, Dy.G.C.  
Mr. Rajendra Soni, Adv. &  
Mr. Nitin Soni, Adv. in SBCWP  
No.17489/2015  
Mr. Ashwani Jaiman in SBCWP  
No.2771/2016

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**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

**Judgment**

- 1. Date of conclusion of arguments : 19.11.2025**
- 2. Date on which the judgment was reserved : 19.11.2025**
- 3. Whether the full judgment or only the  
operative part is pronounced : Full Judgment**
- 4. Date of pronouncement : 03.12.2025**

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1. This case has a chequered history. The petitioner in Writ Petition No.2771/2016 has been running from pillar to post with the hope that she would get the fruits of successful litigation. She has been in the corridors of the court for the last three decades. It is a very unfortunate situation where a lady has been deprived from the fruits of successful litigation despite the fact that the case was decided in her favour in the year 2000. This Court must appreciate the fact that our judicial system failed to provide speedy justice to the litigant which is a fundamental right of the citizen guaranteed under our Constitution. It is often said that justice delayed is justice denied. In the current case, the delay has been so egregious, that it amounts to chronic administrative

failure. It is a stark reminder that a favourable decree or order means nothing if the execution process is allowed to atrophy into a protracted process for the current petitioner.

2. Since both the writ petitions have been filed against the common orders dated 12.10.2015 & 01.12.2015, passed by learned Civil Judge, Chirawa, District Jhunjhunu in Execution Petition No.1/2004, hence, both are being decided by this common order.

3. Brief facts of the case culled out from the record are that the petitioner- 'S' was appointed as lecturer in economics in the institution run by respondent No.3 (petitioner in Writ Petition No.17489/2015) in the year 1972. She continuously discharged her duties for a period of about 23 years until 25.09.1995, when she was abruptly restrained from discharging her functions without issuance of any order and without assigning any reason whatsoever. Aggrieved by the aforesaid action, the petitioner approached the Rajasthan Non-Government Education Institution Tribunal, Jaipur (for short the "Tribunal") which finally allowed her application vide order dated 12.06.2000 and directed the respondent-Institute to permit the petitioner to resume duties on her post, to grant her leave and pay in accordance with the applicable rules, and also to consider her case for giving her selection scale as per the rules of State Government and further benefits qua PF and other deductions. Against the order of the Tribunal, the respondent-Institute preferred SBCWP No.5661/2001 before this Court contending that the petitioner had voluntarily

abandoned her services. The petitioner filed Execution application for implementing the award dated 12.06.2000 along with recovery of back wages as no stay was operating against its execution and the Executing Court vide order dated 16.01.2004, ordered for issuing a recovery warrant of Rs.25,87,909/- against the respondent-Institute, which was subsequently issued on 28.02.2004. In the meantime, the Writ Petition (SBCWP No.5661/2001) filed by respondent No.3 was dismissed vide order dated 15.12.2008 and order dated 12.06.2000 passed by the Tribunal was upheld.

4. Thereafter, the Executing Court decided the matter on 21.01.2011 and issued recovery warrant of Rs.2,15,127/- instead of Rs.49,62,650/-, as contended by the petitioner. The order dated 21.01.2011 was challenged by both the sides before this Court and the matter was disposed of in favour of the petitioner vide order dated 30.04.2015 passed in SBCWP No.10455/2011 connected with SBCWP No.4649/2011. The relevant and operative portion of the order dated 30.04.2015 is reproduced as under:

“On perusal of the above, it transpires that on earlier occasion, the executing court issued warrant to the extent of Rs. 25,87,909/-. Though this order was initially stayed by this court in the above writ petition but when the writ petition ultimately stood dismissed the executing court was required to assess its earlier order but there is no finding of the Trial court on all these issues and for the aforesaid reason, order of trial court cannot be sustained. Accordingly, the writ petition is

allowed. Impugned order of the Executing Court is quashed and set aside and the case is remanded back to the executing court to decide all the issues afresh in the light of its earlier order dt. 16.01.2004 and the order dt. 15.12.2008 passed by this court in SB Civil Writ Petition No.5661/2001. The trial court/executing court shall be entitled to decide each and every aspect as raised by the parties and it would be the endeavour of the executing court to pass a comprehensive order in accordance with law. Since the petitioner has retired long back on 31.08.2006 and it is the grievance of the petitioner that nothing has been received by her during the last almost 20 years, therefore it would also be appropriate to direct the trial court to decide the matter finally within a period of three months from the date of receipt of certified copy of this order. Both the writ petitions filed by the petitioner as well as the State thus stand disposed of."

5. In compliance of order dated 30.04.2015, the petitioner filed an application before the Executing Court. The Executing Court framed 4 issues and vide orders dated 12.10.2015 and 01.12.2015 decided issue No.1 against the petitioner, issues No.3 and 4 were partly decided against the petitioner and issue No.2 was decided in favour of the petitioner. In the result, the Executing Court issued warrant of recovery against the respondent for Rs.35,91,820/-, as against Rs.65,24,356/- as contended by the petitioner. The orders dated 12.10.2015 and 01.12.2015 are the subject matters of the dispute in the present writ petitions.

6. During pendency of this Writ Petition (2771/2016), an order was passed by this Court on 10.04.2023 directing the respondent No.2 i.e. Director/Commissioner, College Education to consider the matter within a period of three weeks from 20.04.2023. It was also observed that the Director, College Education will hear both the respective sides along with their advocates and thereafter pass a reasoned order after taking into consideration the benefits which have been allowed to similarly situated persons. The order of the Director, College Education was placed before this Court on 11.05.2023. It was also observed that both the sides shall appear before the office of Director, College Education on 20.04.2023 at 11:00 AM, or at some time on or before 20.04.2023 which may be convenient to all sides involved, including the Director, College Education. It was further observed that respondent No.2 shall independently examine the issue and consider what has been granted to similarly situated persons and pass a reasoned order as per the applicable norms and regulation of the State Government.

7. In compliance of order dated 10.04.2023, respondent No.2 passed an order on 30.05.2023, according to which he opined that respondent-Institute has wrongly terminated the services of the petitioner and she is entitled for all service benefits. However, it was observed that only the Institute is liable to pay benefits to the petitioner and the Institute is not entitled to receive any aid from the Government.

8. Learned counsel for the petitioner submits that learned Executing Court has committed error in awarding only

Rs.35,91,820/- instead of Rs.65,24,356/-. Counsel further submits that petitioner is also entitled to receive interest on the amount from the date it was due. Counsel further submits that since retiral benefits are considered in continuation of service and it is not mercy and earned by the employee after rendering the services for the past 34 years.

9. On the other hand, learned counsel appearing for respondent No.3 (petitioner in Writ Petition No.17489/2015) submits that learned Executing Court has committed error in holding that petitioner-employee is entitled to benefits for the period from 1995 till the date of her retirement. It is contended that it is a well-settled principle of law that the Executing Court cannot travel beyond the terms of the award or decree. However, he fairly concedes that the petitioner shall be entitled to receive the benefits for the period commencing from the date of the Tribunal's order till the date of her retirement. It is also submitted by the counsel that during the relevant period, petitioner was in gainful employment and earned an amount of Rs.20,33,883/- from a different institution and therefore, such amount ought to have been deducted while determining the sum payable to her. Learned counsel further argues that the respondent-Institute is liable to bear only 10% of the amount, whereas the remaining 90% is required to be borne by the State Government, the Institute being an aided institution. Hence, it is urged that unless the 90% amount is released by the Government, the respondent-Institute

cannot be compelled to make payment of the entire amount to the petitioner.

10. Learned counsel appearing for the other respondents submits that in compliance with order dated 10.04.2023, respondent No.2 has already passed an order holding that the petitioner is entitled to all service benefits, including salary from 1995 till the date of retirement, as well as retiral dues including gratuity. It is however contended that the State Government is under no obligation to grant aid to the respondent-Institute in this regard, since the liability has arisen on account of the wrongful acts of the respondent-Institute alone.

11. I have heard learned counsel for the parties and perused the material available on record.

12. The dispute between the parties essentially pertains to the amount payable under the decree/award. The Executing Court has issued the warrant of recovery of Rs.35,91,820/-. The petitioner claims that the actual amount payable under the decree is Rs.65,24,356/- and the recovery warrant must be issued for the same. The petitioner claims that since the petitioner had retired before the execution of the order under decree, she is entitled for the retiral benefits including gratuity along with interest as per rules. So far as the claim of amount Rs.65,24,356/- is concerned, the petitioner has not placed any authenticated mathematical calculation which leads to this amount. On the contrary, the Executing Court during the execution proceeding realized that it is a matter of account and a qualified person could calculate the

exact amount, hence, appointed Sub-Treasurer of Chirawa, who after calculating the service conditions, time to time payable salary and other benefits submitted the report that the petitioner is entitled to recover Rs.35,91,820/-. The report of the Sub-Treasurer cannot be ignored or discarded as he was the best officer for the calculation of the salary and other benefits payable to the petitioner and the Executing Court has relied upon this calculation and issued the recovery warrant of Rs.35,91,820/-. Here an important aspect which is to be considered is that during the period in which the petitioner was not allowed to work, in this situation, the petitioner joined some other institution and earned Rs. 20,33,883/-. Naturally, this amount is to be adjusted in the decretal amount because she did not remain unemployed during the period and earned Rs.20,33,883/- which are to be reduced from the decretal amount, hence, the petitioner is entitled to receive an amount of Rs.15,57,937/- instead of Rs.35,91,820/-. However, a very long period has been spent in litigation, and the petitioner is deprived of the fruits of her money, it would be just and proper to award interest @ 9% per annum on the decretal amount from the date it became due, and in the event of further delay by the Institution, a penal interest @ 12% per annum shall also be payable.

13. So far other retiral benefits are concerned, it is the settled principle that Executing Court cannot go beyond the decree. The petitioner was ordered to be re-instated in service and was allowed to join duties and therefore she was entitled for salary which was payable on 15<sup>th</sup> of every month. Since she was re-

instated in service soon before her retirement and therefore, for a very short period, salary was paid and remaining part of salary was not paid, so she was entitled to get salary of the period for which she was in service but so far retirement benefits are concerned, there was no specific order of the Tribunal and retiral benefits are consequential benefits. She was superannuated after the date of the order of Tribunal dated 12.06.2000. The petitioner in this execution proceeding cannot claim any amount whatsoever as retiral benefits etc., because they were not consequential to the order, as they became due after her retirement for the recovery of this retiral benefits. The petitioner was supposed to approach the courts for the recovery of such amounts, but Executing Court cannot recover such amount in the present execution proceedings. Hence, the Executing Court has committed no error in not awarding amount of retiral benefits but simultaneously this Court cannot forget the fact that matter has remained pending for more than 25 years and petitioner has attained the age of 80 years so directing the petitioner to approach the Tribunal for retiral benefits would be a very harsh approach and may prolong the matter for another decade, thus, in such circumstances, this Court deems it just and proper to exercise its jurisdiction under Article 226 of the Constitution of India and direct the respondent-Institute to calculate and grant the retiral benefits on or before 30<sup>th</sup> June 2026 and the State respondents will provide necessary funds to the Institution according to the applicable rules.

14. The respondent-Institute has taken this objection that the respondent-Institute is an aided institution and 90% of the

expenses of the Institution are reimbursed by the State Government and the Institution is liable only for the remaining 10%, and hence the total amount cannot be recovered from the Institution. But, in the considered opinion of this Court, this objection is not acceptable because the 90% and 10% ratio adjustment is inter se dispute between the Institution and the State respondent, and does not concern the petitioner. So far, the petitioner is concerned, she was an employee of the Institution and for any salary and other benefits, she is entitled to recover it from the Institution itself, and the Institution can seek its 90% reimbursement from the State Government. But initially the Institution is liable for the payment of the whole amount to the petitioner and then the Institution can seek reimbursement from the State Government.

15. As far as the contention of State respondents are concerned that they are not liable to pay any amount to the petitioner through the Institute is sans merit because it is the admitted position that State respondents were a party before the Tribunal as well as the Executing Court and they did not choose to challenge the orders passed by the Tribunal and the Executing Court, therefore to the extent of State respondents, orders passed by the Tribunal as well as the Executing Court have attained finality and in the considered opinion of this Court, learned Executing Court has not committed any error in holding that the Institute can seek reimbursement from the State respondents. Submission of the State respondents that only respondent-Institute is liable to pay the amount to the petitioner has no force

because the intention of the Court to pass the order dated 10.04.2023 was only to cut short the controversy and take decision in accordance with order of Executing Court and it does not mean to sit over the judicial determination particularly when there is no challenge on behalf of the State respondents to the orders of Tribunal as well as the Executing Court.

16. In order to avoid any further complications, it will be proper to provide time period for the payment of the amount to the petitioner by the Institution and then time period for the reimbursement of the amount paid by the Institution from the Government. This Court deems it just and proper to dispose of these writ petitions with the following directions:-

- i) Respondent-Institute is directed to make the payment of Rs.15,57,937/- along with simple interest @ 9% per annum to the petitioner-employee from the date it became due, within a period of one month from the date of this order. It is made clear that if the said amount is not paid within one month from the date of this order, then the said amount shall carry an interest @ 12% per annum till its realisation and the State respondents are also directed to grant aid to the respondent-Institute within a period of two months.
- ii) Respondent-Institute is further directed to calculate and grant the retiral benefits on or before 30.06.2026 and the State respondents will provide necessary funds to the Institution according to the applicable rules.

17. With the aforesaid directions, both the writ petitions are disposed of and the impugned orders dated 12.10.2015 & 01.12.2015, passed by learned Civil Judge, Chirawa, District Jhunjhunu in Execution Petition No.1/2004 are modified accordingly.

18. Stay applications and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J

Manoj Solanki/-