

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 7112/2026

URN: CW / 15632U / 2026

Ramprasad Meghwal S/o Sh. Gopilal, Aged About 60 Years, R/o
B-268, New Nakoda Colony, Baran, (Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Secondary Education Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education Rajasthan Bikaner.
3. District Education Officer, Secondary Education, Baran.
4. Chief Block Education Officer, Kishanganj, Distt. Baran.

-----Respondents

For Petitioner(s) : Mr. Sajid Ali

For Respondent(s) :

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

03/07/2026

1. This writ petition has filed by the petitioner with a limited prayer that respondents be directed to release the benefit of leave encashment to the petitioner, who has retired on 31.07.2025 on attaining the age of superannuation.

2. Learned counsel for the petitioner submits that the petitioner has not been extended the benefit of leave encashment on account of pendency of the trial of a criminal case against him. He further submits that the issue as regards the payment of leave encashment to a person, who facing criminal case or convicted in a criminal case, has already been settled in case of **State of**

***Rajasthan and Anr. Vs Shankarlal Rajpurohit, (D.B. Civil
Special Appeal (Writ) No. 1833/2008)*** decide on 09.05.2012,

wherein the Hon'ble Division Bench of Jaipur has held as under:-

"Heard finally with the consent of the learned counsel for the parties.

The facts in short are that respondent-employee was in the employment of the State of Rajasthan. He was involved in a criminal case under Prevention of Corruption Act. Subsequently, he was convicted. An order was passed on 14.3.2005 withholding benefit of pension as well as gratuity which was questioned before the Single Bench. It was further submitted that denial of benefit of leave encashment was also not proper. He was also suspended during pendency of criminal case. He also prayed for payment of wages for the period of suspension minus payment of subsistence allowance.

The Single Bench has held that as the respondent has been convicted in a criminal case though appeal is pending against same, under Rule-7 of the Rajasthan Civil Service Pension Rules, 1996, if a person is convicted then benefit of pension can be stopped and appropriate order can be passed. Withholding of pension has been upheld under Rule-7 of the Rules of 1996 till respondent's conviction is not set aside. With respect to leave encashment and benefit during suspension period, direction has been issued to decide claim of the respondent inasmuch as if no order was passed regarding suspension period, necessary order may be passed in accordance with law. Direction has also issued to consider the question of leave encashment. It has also been observed that in case respondent is acquitted, he would be entitled for the pensionary benefits and so far as claim of gratuity is concerned, the appellants are under obligation to consider the case of the respondent as there is no rule debarring him for grant of gratuity on conviction. The order passed by the Single Bench has been questioned by way of filing intra- court appeal.

Shri R.P. Singh, learned AAG appearing on behalf of the appellant State has submitted that direction could not have been issued by the Single Bench for payment of gratuity. At the most, respondent could be said to be entitled for leave encashment. Pension has rightly been withheld. He has further submitted that as per Rule-54 of Rajasthan Service Rules, 1951, decision has to be taken with respect to regularization of period of suspension.

Shri Mahendra Singh learned counsel appearing on behalf of the respondent has submitted that the employee is entitled for payment of gratuity for which direction has rightly been issued by the Single Bench. Benefit of leave encashment also cannot be withheld. Period of suspension is also to be regularized.

After hearing learned counsel for the parties, we are of the opinion that gratuity has rightly been withheld as gratuity is included in pension as defined in the Rajasthan Civil Services Pension Rules. As per Rule-3(p), pension includes gratuity except when the term pension is used in contradistinction to gratuity; but does not include dearness relief and interim relief. Rule-7 deals with withholding of pension which included gratuity. Thus, gratuity could have been withheld along with pension.

The Supreme Court in **Jarnail Singh Vs. Secretary, Ministry of Home Affairs & Ors. (1993) 1 SCC 47** has laid down that withholding of pension by way of punishment includes gratuity. Similar is the view taken by the Apex Court in **Union of India & Anr. Vs. G. Ganayutham (1997) 7 SCC 463** in the context of Rule 9(1) of the Central Civil Services (Pension) Rules, 1972.

In view of aforesaid decisions, we find that the order passed with respect to withholding of pension and gratuity is appropriate. However, the same shall be subject to decision of criminal appeal. In case, the respondent is acquitted, he may file representation to revise the order withholding pension and gratuity. However, so far as benefit of leave encashment is concerned, it is directed that appellant

shall release payment of leave encashment in case it has not been released so far. However, with respect to regularizing the period of suspension, let the State Government issue a show cause and thereafter decide the question of regularization of period of suspension in accordance with the provisions contained in Rule-54 of the Rajasthan Service Rules, 1951.

With the aforesaid directions, the intra-court appeal is partly allowed. The order passed by the Single Bench is modified to the aforesaid extent. Stay application is also disposed of. No costs.”

3. The Finance Department, Government of Rajasthan, vide clarification dated 21.01.2022 has clarified that benefit of leave encashment can only be withheld in a case when an employee is facing a departmental proceeding or criminal case and there is likelihood of recovery of same amount.

4. In the present case, the petitioner is facing the criminal trial, being involved in a criminal case under the provisions of Corruption Act, as he is the husband of the village Sarpanch.

5. It is the basic principle of the Government administration that whenever any issue is settled by the Courts, than the Government administration should follow that judgment in all similar cases, so as to avoid any further litigation by any other employee on the same issue.

6. As regards the benefit of leave encashment to an employee, who is facing a criminal case or has been convicted in a criminal case, the Division Bench has already settled the issue in case of **Shankarlal (supra)**, vide its judgment dated 09.05.2012 and the Finance Department has also issued clarification on 21.01.2022. Though, the respondent should have extended the

benefit of leave encashment to the petitioner on his retirement, but the petitioner has been denied the said benefits even after representations given by him and the petitioner has been dragged to this Court for filing this petition for seeking the said benefit.

7. On filing of this petition, the Court vide its order dated 05.05.2026 directed the to serve a copy of this petition in the office of Mr. Manoj Sharma, AAG. The case was again listed on 22.05.2026 and appearance was put on behalf of the Additional Advocate General and a weeks' time was sought to update the instructions as to why the lave enashment of the petitioner has been withheld. It is very unfortunate that even after the issue being settled by the Hon'ble Division Bench of this Court, the respondent authorities are not respecting the verdict of the Court and extending benefits to the employees in the light of the observation and directions of the Court.

8. Today, Ms. Pooja Sharma, Advocate puts in appearance on behalf of the respondent-Department and prays for time to file reply to the writ petition.

9. Though, the respondents should have extended the benefit of leave encashment to the petitioner in light of the observations of this Court in case of ***Shankalal Rajpurohit (supra)***, but instead of extending the benefit, the time is being sought on behalf of the respondents for filing the reply. Hence, this Court has failed to understand that when the issue has already been settled then what reply the respondents want to file.

10. In view of the above, the Court is of the opinion that the petitioner is entitled for leave encashment i.e. payable to him under law and therefore, this writ petition deserves to be allowed.

11. Accordingly, this writ petition is allowed.

12. The respondents are directed to extend the benefit of leave encashment to the petitioner within a period of thirty days' from today along with the interest @ 9% per annum from the date after two months' of superannuation age.

(GANESH RAM MEENA),J