

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.3734 of 2013

Date of decision: 23.04.2015

Hargobind Rai son of Shri Karam Chand son of Shri Nathu Ram,
Faridkot Road, Kotkapura, Tehsil and District Faridkot.

... Petitioner

versus

The Managing committee, Gandhi Memorial High School,
Kotkapura, through its Manager, GMHS, Kotkapura, Faridkot, and
others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Harinder Sharma, Advocate,
for the petitioner.

Mr. Surinder Garg, Advocate,
for respondents 1 and 2.

Ms. Vandana Malhotra, Additional Advocate General,
Punjab.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petition is against the order passed by the trial Court allowing the application filed under Section 8 of the Arbitration and Conciliation Act. The application was moved at the instance of the Managing Committee of the school referring to the statutory agreement signed by the teacher that he would be paid a particular

salary and any dispute arising between the parties guaranteed under the rules will be resolved through an Arbitrator. The court accepted the contention and the respondent is against the said order.

2. The counsel for the petitioner states that the reference to arbitration is not included in the appointment letter issued and the agreement was independent of the appointment with the particular scale of pay provided in the said letter. The appointment letter was issued on 29.06.1991 and it does not stipulate any condition that in the event of dispute, the matter would be referred to arbitration. The counsel for the respondents refers to the agreement which is issued under Chapter VII of the Punjab Education Code and executed between parties on 29.06.1991. The agreement makes reference in the preamble to the document that the school authorities had agreed to engage the Headmaster to serve the Gandhi Memorial High School at Kotkapura in the capacity of Headmaster and at the salary hereinafter mentioned. The agreement stipulates further the reference to salary expressed in para 7 of the agreement as follows:-

“7. That if the said (teacher) shall observe and comply with all the provisions of these presents there shall be paid to him, for such time as he shall be in the service of the said school and actually perform his duties, a salary of Rs.200/-+Rs.100/- per mensem for first year and his service, which shall be increased each subsequent year of service by Rs.50/- per mensem upto a maximum of Rs.35/-, but that in the event of his temporary absence

from duty by reason of sickness or leave otherwise he shall be paid such salary only as shall be determined by rules in force in the said school.

Provided always that the teacher shall get the full salary or a proportionately reduced amount per month during the long vacation according as he has worked for eight months or more proceedings the vacation or a shorter period, provided further that the teacher shall not be entitled to any vacation pay if he has served for less than three months.”

The relevant clause relating to arbitration is spelt out in para 9, which reads as follows:-

“9. That any dispute that any arise in connection with the proceeding rules between a teacher and a Management shall be referred to an Arbitration Board consisting of Inspector/Inspectress of his/her nominee and a representative each of the Management and the teacher provided either party moved the Inspector/Inspectress within two months of the arising of the cause of action. In the Arbitration fall to each an agreement, the decision of the majority of Arbitration shall be final and binding on both the parties.”

The reference to clause 9 must be understood, in my mind, only to a right which obtains to a contracting party under the rules stipulated under the agreement. The expression “rules” must be understood in the context as “clauses” found in the agreement and if there was a contemporaneous letter of appointment providing a particular salary, it must be taken as incorporated in the agreement itself, for, the

preamble makes reference to payment of salary and para 7 also refers to the salary in the first year and for the subsequent years of what he is entitled to. I will therefore take that right of what is assured in the appointment letter. If it was denied, the resort can be at only to the procedure prescribed under the agreement and cannot be brought by means of a suit. I find no error in the order passed by the court below for an intervention. The same is maintained and the revision petition is dismissed.

(K.KANNAN)
JUDGE

23.04.2015
sanjeev