

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

***CWP No.26452 of 2013 (O&M)
Date of decision : 02.08.2016***

Rajnish Kumar

... Petitioner

Vs.

Kurukshetra University and others

...Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: None for the petitioner.

Mr. G.S. Sidhu, Advocate for respondent No.1.

Mr. Palvinder Singh, Advocate for respondents No.2 and 3.

Mr. Hitesh Pandit, Additional Advocate General, Haryana
for respondents No.4 and 6.

Mr. Ashok K. Sharma, Advocate for respondent No.5.

...

TEJINDER SINGH DHINDSA, J.

Pleadings on record would indicate that the petitioner possesses the qualification of B.Tech and M.Tech in Electronics and Communication Engineering from Kurukshetra University, Kurukshetra. In the year 2013, petitioner was selected and appointed as Assistant Professor in Electronics and Communications Engineering Department of the respondent institute, namely, E-max School of Engineering and Applied Research, Village Badhauri, District Ambala. It has been averred that appointment of the petitioner was thereafter approved even by Kurukshetra University to which the institute is stated to be affiliated.

Challenge in the instant petition is to the order dated 29.10.2013 at Annexure P-5 whereby his services have been terminated.

During the course of hearing today, counsel appearing for respondents have raised a preliminary objection as regards the petitioner having not exhausted the remedy of filing an appeal before the Education

Tribunal/District and Sessions Judge/Additional District and Sessions Judge exercising territorial jurisdiction over the respondent institute towards redressal of his grievance and in the light of notification dated 07.05.2013 issued by the Haryana Government School Education Department.

The notification dated 07.05.2013 issued by the State Government reads in the following terms:-

“No.7/45-2010 PS(2). -- In pursuance of the judgment dated 30.10.2012 of the Hon'ble Supreme Court of India in TMA Pai Foundation and others Versus State of Karnataka (2002 (8) SCC 481), wherein the Hon'ble Court has observed that for the redressal of grievances of employees of unaided educational institutions who are subjected to punishment of termination of services, a mechanism will have to be evolved by constituting appropriate tribunals. The right of filing appeals would lie before the District and Sessions Judge or Additional District and Sessions Judge till the tribunals are set up.

Accordingly, District and Session Judge in the State of Haryana have been authorized to hear appeals of employees of aided/unaided technical education institutions against decision of management within their jurisdiction, by the Hon'ble Punjab and Haryana High Court Chandigarh vide No. 23414GAZ.II/IX.C.II, dated 10.08.200. The Tribunals already notified by the Hon'ble High Court will also hear appeals of employees of aided/unaided schools against the orders of management.

*Surina Rajan
Principal Secretary to Government Haryana,
School Education Department, Chandigarh.*

Endst. No.7/45-2010 PS(2) Dated : 16.05.2013”

Perusal of the same would reveal that employees of aided/unaided technical institution and who are aggrieved by any decision/ order of the management have the right to file an appeal before the District

and Sessions Judge or Additional District and Sessions Judge as the case may be till such time the Education Tribunals are not set up in compliance of the judgment of Hon'ble Apex Court in ***TMA Pai Foundation and others Versus State of Karnataka, 2002(8) SCC 481.***

In the considered view of this Court, the petitioner has an alternate efficacious remedy of filing an appeal as per notification dated 07.05.2013.

Accordingly, the instant petition is disposed of in terms of granting liberty to the petitioner to prefer an appeal in terms of the notification dated 07.05.2013 issued by the School Education Department, State of Haryana, if so advised and on all grounds that may be available strictly in accordance with law.

It is, however, clarified that this Court has not examined the case on merits and all issues in relation to the impugned order of termination dated 29.10.2013 and other related matters emanating therefrom are kept open.

Disposed of.

02.08.2016

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**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |