

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

**Civil Writ Petition No.11506 of 2013 &
other connected petitions
Decided on : 20.09.2017**

Kanchan Sharma

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Ms. Anu Chatrath Kapur, Senior Advocate with
Ms. Richa Bansal, Advocate,
Mr. Ravi Verma, Advocate,
Mr. Ashwani Antil, Advocate,
Mr. Vivek Singla, Advocate,
Mr. Manjeet Singh, Advocate for
Mr. Jasbir Mor, Advocate,
Mr. Rakesh Sobti, Advocate,
Mr. B.S. Jaswal, Advocate,
for the petitioners.

Mr. Sushil Jain, Advocate and
Mr. Adarsh Jain, Advocate for respondent No.2
in CWP No.11506 of 2013.

Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate for respondent-CBSE.

Mr. N.K. Setia, Advocate for respondent-CBSE
in CWP Nos.4497 and 4501 of 2015.

Ms. Shruti Jain Goyal, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of 38 writ petitions i.e
CWP Nos.11506, 5229, 5308, 5559, 6945, 11500, 11502, 11503, 11530,
11552, 12311, 12375, 12377, 14761, 15389, 15893, 15897, 19731, 19931
21007, 21541, 22116, 22473 23415, 23419, 28638 of 2013 & 461, 6162,
6726, 7661 of 2014 & 4497, 4501, 21505, 22302 of 2015 & 191, 3439,
3632 of 2016 & 14801 of 2017.

The present petitions are all against the action of educational institutions, whereby the employees are seeking benefit of revised pay scales, whereas in other cases the termination orders passed of the petitioners are subject matter of challenge.

On 12.07.2017 it was noticed that the issue whether the Educational Tribunal has the jurisdiction to decide all service disputes other than matters arising out of disciplinary action should be clarified, since in the present bunch large number of cases are pertaining to the revision and the non-grant of the arrears of the revised pay scales.

In pursuance of the same, affidavit of Shri Rajiv Rattan, Special Secretary to Government Haryana, School Education Department, Panchkula has been filed. It has been mentioned that on an earlier occasion in CWP No.58 of 2014 vide order dated 04.11.2016, the petition filed by the employees of DAV College of Engineering and Technology, Kanina (Mohindergarh), wherein directions had been sought to pay them senior scale and other benefits in terms of recommendations of 6th Pay Commission, had been relegated to the Educational Tribunal which is comprising of the District Judges in the concerned districts. Reference has also been made to other orders passed (Annexure R-3 to R-6) and order passed by this Court in **CWP No.12904 of 2013 'Sandeep Pilonia Vs. Arya Pritinidhi Shabha, Dayanand Math, Rohtak and others'** and in connected cases on 01.09.2017 (Annexure R-7).

It is pertinent to notice that the Division Bench in **'Management of S.D. Model Senior Secondary School and another**

Vs. District Judge-cum-Service Tribunal and another' 2014 (1) SCT 652, has held that any decision of the Management could be challenged by way of an appeal before the Educational Tribunal including the issue of pay scales. The notification dated 10.08.2005 followed up by notifications dated 08.09.2005 (Annexure R-1) and 07.05.2013 (Annexure R-2) were accordingly kept in mind. The relevant portion of the order reads as under:-

“The subsequent notification dated 07.05.2013 does not change the scope or jurisdiction of the Educational Tribunal in any substantial manner. Therefore, any decision of the Management could be challenged by way of an appeal before the Educational Tribunal. Consequently, we find that though the Supreme Court in T.M.A.Pai Foundation’s case (supra), directed constitution of Educational Tribunal relating to disciplinary matters, but in view of the decision of the State Government, taken in exercise of the executive powers of the State, the decision of the Management regarding pay scale can also be subject matter of appeal before the Educational Tribunal.”

As noticed the view has already been followed by other Coordinate Benches and keeping in view the fact that the Apex Court also in '**Union of India Vs. Satyawati Tondon and others' 2010 (8) SCC 110** has repeatedly held that where efficacious alternative remedy is available, the matter should not be adjudicated up by this Court under Article 226 of the Constitution of India.

Resultantly, the present writ petitions are disposed of by relegating the petitioners to file appeals before the Educational Tribunal

before the respective District and Sessions Judges. It is, however, made clear that wherever the employees have been protected, stay shall continue to operate for a period of 2 months, subject to the petitioners filing their appeals before the concerned District and Sessions Judge within a period of 4 weeks from today.

It will be open to the Educational Tribunal to further pass interim orders to protect the petitioners.

The writ petitions are, accordingly, disposed of with the above said terms.

SEPTEMBER 20, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No