

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

Civil Writ Petition No.12904 of 2013

Sandeep Pilania

... Petitioner

Versus

Arya Pritinidhi Shabha, Dayanand Math, Rohtak and others

... Respondents

(2)

Civil Writ Petition No.23971 of 2014

Suman Kumari

... Petitioner

Versus

Arya Pritinidhi Shabha, Dayanand Math, Rohtak and others

... Respondents

(3)

Civil Writ Petition No.12741 of 2017 (O&M)

Ajinder Jeet Kaur

... Petitioner

Versus

Arya Bal Bharti Public School, G.T. Road, Panipat and others

... Respondents

Decided on : 01.09.2017

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

Present: Mr. Naveen Daryal, Advocate for the petitioner
in CWP-12904-2013 & CWP-12741-2017.

Mr. Sailender Singh, Advocate for the petitioner
in CWP-23971-2014.

Mr. Ravinder Malik (Ravi), Advocate
for respondents No.1, 2 and 4.

Ms. Shruti Jain Goyal, AAG, Haryana.

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

G.S. Sandhawalia, J. (Oral)

CM-11980-CWP-2017 in CWP No.12741 of 2017

Application for exemption from filing Annexures R-1/1 to R-1/5 and true copies of Annexures R-1/3 and R-1/4, is allowed, subject to all just exceptions.

CM stands disposed of.

CM-11981-CWP-2017 in CWP No.12741 of 2017

Application for placing on record written statement on behalf of respondents No.1 to 3 and Annexures R-1/1 to R-1/5, is allowed, subject to all just exceptions.

CM stands disposed of.

Main cases

The present order shall dispose of three writ petitions i.e. **CWP Nos.12904 of 2013, 23971 of 2014 and 12741 of 2017**. The facts are being taken from **CWP No.12904 of 2013 'Sandeep Pilania Vs. Arya Pritinidhi Shabha, Dayanand Math, Rohtak and others'**.

The challenge in the said writ petition is to the order dated 27.05.2013 (Annexure P-2), whereby the petitioner's services have been dispensed with from the post of Computer Clerk by respondent No.2, an educational institution.

While issuing notice of motion on 31.05.2013, regarding the service of the petitioner status-quo was ordered to be maintained. On 16.05.2017 the following order was passed:-

“Notice to Principal Secretary to Government Haryana, School Education Department.

On the asking of the Court, Mr. R.K. Doon, Assistant Advocate General, Haryana, accepts notice on behalf of Principal Secretary to Government Haryana, School Education Department.

Learned counsel for the petitioner is directed to furnish two sets of writ petition to the learned State Counsel.

The Principal Secretary, School Education Department, Haryana is hereby requested to clarify the notification dated 07.05.2013 (Annexure R-2/5) insofar as "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" whether notification dated 07.05.2013 relates to other than the aided / unaided technical institutions like aided / unaided schools also.

List this matter on 25.07.2017.

A photocopy of this order be placed on the file of connected matter."

In pursuance of the same, detailed affidavit dated 31.08.2017 of Shri Rajiv Rattan, Special Secretary to Government Haryana, School Education Department, Panchkula has been filed.

Counsel for the State has, thus, submitted that for employees of aided and unaided schools also the remedy would be before the District and Sessions Judge and reference is also made to the notification issued by this Court on 10.08.2005, which was followed up by notifications dated 08.09.2005 (Annexure R-1) and 07.05.2013 (Annexure R-2). Accordingly, reference is also made to the Division Bench judgment in '**Management of S.D. Model Senior Secondary School and another Vs. District Judge-cum-Service Tribunal and another**' 2014 (1) SCT 652, wherein the said issue was raised and it was held that any decision of the Management could be challenged by way of an appeal before the Educational Tribunal. The relevant portion 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.”

This view has been followed in **CWP No.4177 of 2015 'Dr. Mukul Gupta Vs. Industrial Finance Corporation of India Limited and others'** decided on 29.05.2015 (Annexure R-6), **CWP No.16140 of 2015 'Rashmi Arora Vs. DAV College Managing Committee and others'** decided on 18.01.2017 (Annexure R-5) and in **CWP No.58 of 2014 'Sumit Kumar and others VS. State of Haryana and others'** decided on 04.11.2016 (Annexure R-4) and the petitioners have been relegated to their alternative remedy, keeping in view the settled principle by the Apex Court in **'Union of India Vs. Satyawati Tondon and others' 2010 (8) SCC 110.**

Accordingly, the present writ petitions are also disposed of with liberty to the petitioners to avail their remedy 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 District and Sessions Judges to further pass interim orders.

Petitions stand disposed of.

SEPTEMBER 01, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No