

Civil Writ Petition No.18651 of 2012

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

Sr. No.205

**Civil Writ Petition No.18651 of 2012
DECIDED ON: July 12, 2017**

RAJKAMAL SINGH DEVESHWAR

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. A.K. Walia, Advocate,
for the petitioner.

Ms. Sudeepti Sharma, Additional Advocate General, Punjab.

Mr. Daman Dhir, Advocate,
for respondent No.4.

JASPAL SINGH, J.

By virtue of the instant civil writ petition preferred under Article 226/227 of the Constitution of India, petitioner has sought the issuance of writ especially in the nature of mandamus directing the respondents to revise the pension and other retiral benefits of the petitioner

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after fixing his pay in the revised pay scale of the post of Principal w.e.f. January 01, 2006 and to release all arrears of pay and allowances and pensionary benefits with interest @ 12% p.a. from due date till actual payment thereof; further that petitioner is entitled to regular pay scale of the post of Principal on the date of his appointment instead of January 2006 as per CBSE affiliation byelaws and rules governing school and reliable to pay the allowances on the post of Principal with interest @ 12% p.a. at the aforesaid rate and petitioner has been wrongly retired in the mid session in July 2011 in violation of Rule 30 of CBSE affiliation Byelaws and was entitled to continue in service upto March 2012 and hence entitled to salary from July 2011 to March 2012.

2. At the very outset of the arguments, it has emerged that Punjab Public School is not amenable to writ jurisdiction under Article 12 of the Constitution of India it being a private school and is receiving no aid or any funds from the Government. Otherwise also, petitioner has an alternative remedy to approach the Educational Tribunal, which is functioning. If petitioner has any grievance(s) with regard to his service or service benefits, he may approach the Educational Tribunal.

3. At this juncture, learned counsel for the petitioner has submitted that he may be permitted to withdraw the petition to enable him to avail alternative remedy for redressal of his grievance(s) sought through this petition before the Educational Tribunal. In addition to it, he has also submitted that since petitioner has preferred writ petition in the month of September, 2012, when Educational Tribunal was not formed and functioning, delay if any, in availing of remedy before aforesaid Tribunal be

condoned. Heard. Writ petition is dismissed with liberty to petitioner as prayed for. However, in connection with submission of petitioner with regard to delay, it is observed that in case, the period for availing of remedy before Educational Tribunal has expired during the pendency of writ petition, the Educational Tribunal shall consider this aspect and hear the case on merits after condoning the delay, if any.

4. With the aforesaid observations, instant petition stands disposed of.

July 12, 2017

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No