

C.W.P. No. 7771 of 2012 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 7771 of 2012 (O&M)

DATE OF DECISION:16.11.2017

Pardeep Singh

.....Petitioner

Versus

Panjab University, Chandigarh and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Amandeep S. Talwar, Advocate
for the petitioner.

Mr. Subhash Ahuja, Advocate
for respondent No.1.

Mr. Sarthak Gupta, Advocate for
Mr. Animesh Sharma, Advocate
for respondents No.3 and 5.

DAYA CHAUDHARY, J.

The present petition has been filed by the petitioner for issuance of a writ in the nature of mandamus directing respondents to release the pay of the petitioner as per pay scale of ₹15600-39100 + AGP ₹6000/- along with all admissible allowances with interest w.e.f. the date of his joining service i.e. 2.9.2009 and also for declaring order of termination as illegal and unlawful and to reinstate him in service w.e.f. 4.10.2011 along with all consequential benefits.

During hearing of the case, learned counsel for respondents

No.3 and 5 has raised a preliminary objection that the Educational Tribunal (hereinafter referred to as 'the Tribunal') has the jurisdiction to hear and decide the case and all other cases of similar nature pending before this Court have already been transferred to the Tribunal. He further contends that the present petition be also transferred to the Tribunal.

Learned counsel for the petitioner submits that the case is pending before this Court since long and this objection was never raised. He further contends that there is no bar in deciding the case by this Court only.

Learned counsel for respondents No.3 and 5 has also relied upon the order passed by this Court in C.W.P. No. 16140 of 2015 (**Rashmi Arora Vs. DAV College Managing Committee and others**) decided on 18.1.2017, wherein, under similar circumstances, the case was transferred to the Tribunal.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file.

The Educational Tribunal has been constituted to determine the service dispute arising between the employees and the Management, other than those matters pertaining to gratuity. In this regard reliance can be placed upon a Division Bench judgment of this Court in the case of **Management of SD Model Senior Secondary School and another Vs. District Judge-cum-Service Tribunal and another** 2014 (1) SCT 652, wherein, it has been held that notification of the State Government constituting Educational Tribunal will include all service disputes arising out of an order passed by the Management, as appealable to the Educational Tribunal. By relying upon said judgment of Division Bench, the aforesaid petition i.e. **Rashmi Arora's case (supra)** was disposed of with a direction

to file an appeal before the Tribunal. It is also relevant to mention here that in one case i.e. C.W.P. No. 5471 of 2012 titled as **Sandesh Kumar Vs. State of Punjab and others** decided on 27.11.2012 filed by an employee of unaided privately self-financed college, it was specifically held that the Educational Tribunal has the jurisdiction to entertain the issue with regard to service disputes between the management and the employees in view of provisions of Section 7-A (12) of the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 (hereinafter referred to as 'the Act'). Accordingly, in the present case also the petitioner has the remedy to approach the Tribunal for deciding the issue involved.

In view of the above, the present writ petition is transferred to the Tribunal for adjudication of the lis between the parties. It is made clear that learned Tribunal shall not decide the same as writ petition and it should be assigned the number of the appeal as given by the Tribunal to other cases filed before it. Parties are directed to appear before the Educational Tribunal on 15.12.2017 for further proceedings.

The Registry is directed to send the complete paper book to the Tribunal.

November 16, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No