

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

**CR No.8055 of 2017 (O&M)
Date of decision : April 04, 2018**

Patel Memorial Management Society (Regd.) Petitioner

Versus

Drs. Ashwani Kumar and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sameer Sachdeva, Advocate for the petitioner.

Mr. G.S. Bal, Senior Advocate with
Ms. Loveinder Kaur, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 07.11.2017 passed by the Education Tribunal, Punjab, Mohali, vide which the application filed by the respondent No.1 under Order VI, Rule 17 CPC, 1908 for permission to amend the petition filed before the learned Educational Tribunal was allowed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It comes out that respondent No.1 had filed a petition before the Educational Tribunal, Punjab, Mohali, challenging his termination. It further comes out that when the case was almost ripe, an application was filed to amend the pleadings, stating that certain new facts/law points have emerged, which has necessitated the filing of the attached amended petition.

It comes out from the amended petition that earlier respondent No.1 had stated that his services could not be terminated when he was on

probation without giving him an opportunity of hearing and now he claims that on account of provisions of the University, he deems to have been confirmed and his services were illegally terminated.

Learned counsel for the petitioner has argued that the amendment could not be allowed at the appellate stage. He has referred to the provisions of Order VI, Rule 17 CPC, 1908.

A perusal of The Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 (for short 'the Act'), shows that the Tribunal has been constituted under Section 7A of the Act. Under Clause 9 for the purpose of the disposal of an appeal preferred under the Act, the Tribunal will have the powers as are vested in a Court of appeal by the Code of Civil Procedure, 1908 and shall have also the power to stay the operation of any order appealed against on such terms as it may think fit.

Respondent No.1 had filed petition challenging the said termination. It is not an appeal.

In the said Act, it is nowhere laid down as to what procedure is to be followed. However, Clause (8) of Section 7A of the Act provides as under:

“(8) A College Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places or at which it shall hold its sittings.”

A perusal of the said clause shows that the Tribunal shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places or at which it shall hold its sittings. Therefore, it is to be concluded that atleast in the matter of

original petition filed before the Educational Tribunal it can regulate its procedure. Rigor of provisions of Code of Civil Procedure are not applicable, as are applicable to the Civil Courts. Therefore, in order to do complete justice between the parties, the Tribunal can allow the amendment even at the stage of arguments. There is no illegality or infirmity in the impugned order.

As such, the present revision petition is dismissed. Since, the main petition has been dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

April 04, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No