

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

1. CWP-10326-2016

Bright Scholar Senior Secondary School ... Petitioner

Vs.

Presiding Officer and another ... Respondents

2. CWP-10220-2016

Bright Scholar Senior Secondary School ... Petitioner

Vs.

Presiding Officer and another ... Respondents

3. CWP-7030-2016

Rajender Singh Malik ... Petitioner

Vs.

The Presiding Officer and another ... Respondents

4. CWP-7033-2016

Rishi Pal ... Petitioner

Vs.

Presiding Officer and another ... Respondents

Date of Decision:23.02.2018

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Sushant Kareer, Advocate
for the petitioner.

Mr. Ramesh Goyat, Advocate
for respondent No.2.

P.B. BAJANTHRI J. (Oral)

By this common order, all the aforementioned writ petitions shall be decided together being identical.

2. For the sake of convenience, facts are taken from CWP No.10326 of 2016. In the instant petition, petitioner has challenged the award passed by the Labour Court dated 20.11.2015.

3. Labour Court proceeded to decide the dispute on merit by passing an award of reinstatement with continuity of service and 50% back

wages from the date of demand notice. Feeling aggrieved by the award, the present writ petition is filed.

4. Learned counsel for the petitioner submitted that respondent is an employee of petitioner-Educational Institute. Therefore, service conditions of the employees of the Education Institute could be decided by the Educational Tribunal in terms of the notification issued by the State Government pursuant to the decision of the Supreme Court in the case of **T.M.A. Pai Foundation** v. **State of Karnataka**; 2003 (2) S.C.T. 385. Therefore, Industrial Tribunal has no jurisdiction to decide the grievance of the respondent and award of the Labour Court is liable to be set aside.

5. Per contra, learned counsel for the respondent submitted that even though Educational Tribunal has jurisdiction but once the respondent raised industrial dispute, petitioner failed to take the contention relating to jurisdiction of the Industrial Tribunal. Therefore, they are not permitted to take such contention in the writ court. Further in support of the maintainability of industrial dispute before the Industrial Tribunal, learned counsel for the respondent submitted that Supreme Court in the case of **Dr. Janet Jeyapaul** v. **SRM University and others**; 2016 (1) S.C.T. 326 held that due to lapse of time, grievance of the appellant therein was entertained when the matter was pending consideration before the Supreme Court, therefore, at that stage matter cannot be permitted to be decided by the Education Tribunal. Thus, in terms of the said decision, petitioner's contention is liable to be set aside.

6. Heard learned counsel for the parties.

7. Crux of the matter in the present petition is whether respondent's grievance can be entertained by the Industrial Tribunal or not?

Undisputedly in view of the decision of the Supreme Court in the case of T.M.A. Pai Foundation (supra) read with State Government's notification constituting Educational Tribunal, Industrial Tribunal has no jurisdiction to entertain grievance of an employee of a Education Institute. He should have approached Educational Tribunal in view of the notification issued by the State Government. Dr. Janet Jeyapaul's case (supra) is not applicable to the present case for the reasons that in that case writ petition was filed against action of the University. Thereafter, matter was heard by the LPA bench and it went upto Supreme Court. At that stage, Supreme Court is of the view that it is not appropriate to ask the appellant to approach Educational Tribunal. The same yardstick is not applicable to the present case. Therefore, the said judgment is distinguishable.

8. Accordingly, the present petition is allowed. Award passed by the Labour Court dated 20.11.2015 is set aside. Reserving liberty to the respondent to approach Educational Tribunal within a period of one month from today. Educational Tribunal is requested to decide the respondent's appeal within a period of four months from the receipt of this order since respondent was pursuing his grievance before the Labour Court. Parties are hereby directed to co-operate before the Educational Tribunal in deciding the grievance of the respondent.

23.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**