

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8343-2015

DATE OF DECISION: February 27, 2018

Satyavir Singh

....Petitioner

Versus

M/s Lingaya's Institute of Management and Technology and another

.....Respondents

CWP No.1694-2016

DATE OF DECISION: February 27, 2018

Shree Chand

....Petitioner

Versus

The Principal DAV Public School and another

.....Respondents

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

Present: Mr.Anil Shukla, Advocate for the petitioner.
Mr.N.R.Dahia, Advocate for respondent No.1 in CWP
No.8343 of 2015.
Mr.Mohak Bhadana, Advocate for respondent No.1 in CWP
No.1694 of 2016.

P.B. BAJANTHRI, J. (Oral)

By this order, both the aforesaid petitions are being decided together as the controversy involved is identical.

2. In the instant petition, the petitioner has challenged the order passed by the Industrial Tribunal dated 15.1.2015 and award dated 15.1.2015 (Annexures P.5 and P.6).

3. The petitioner is stated to have been employed by the respondent-institution. His services were terminated. Consequently, he raised an industrial dispute. The respondent-institution has raised jurisdiction point before the Industrial Tribunal by making necessary application. The same has been decided in favour of the respondent institution. Further award was also passed stating that the Industrial Tribunal has no jurisdiction in view of the notification dated 7.5.2013, (Annexure P.7) which is in terms of judgment passed by the Supreme Court in **TMA Pal Foundation and others v. State of Karnataka** 2002(8) SCC 481. Hence, the present petition is filed for challenging the order as well as award.

4. Learned counsel for the petitioner submitted that in view of Section 25-J of the Industrial Disputes Act, 1947, there is no bar for entertaining a dispute by the Industrial Tribunal if the notification dated 7.5.2013 is read, therefore, the Industrial Tribunal has jurisdiction. In other words, parallel jurisdiction is available for the employee of educational institution.

5. To the contrary, learned counsel for the respondent while contesting the contentions of learned counsel for the petitioner submitted that notification dated 7.5.2013 is with reference to the Supreme Court's decision, therefore, rightly Industrial Tribunal has held that it has no jurisdiction in respect of employee of Educational Institution. The petitioner cannot have parallel remedy before the

Industrial Tribunal so also before the Educational Tribunal constituted by the State of Haryana vide notification dated 7.5.2013.

6. Heard the learned counsel for the parties.

7. The crux of the present petition is whether the petitioner is an employee of a educational institution or not and further in terms of the notification dated 7.5.2013, the grievance relating to service matters of the employee lies before the Tribunal constituted under the notification dated 7.5.2013 or not ?

8. Undisputedly, the petitioner is an employee of the educational institution of the respondent. Prior to the notification dated 7.5.2013, the grievance relating to the employees were entertainable before the Industrial Tribunal. After 7.5.2013, the grievance relating to the employees of the educational institutions were required to be settled by the Tribunal constituted under the notification dated 7.5.2013. Assuming that the petitioner had grievance that his dispute is required to be examined by the Industrial Tribunal and the matter is required to be remitted back even then the notification dated 7.5.2013 is existing, therefore, question of setting aside the order as well as award by the Industrial Tribunal do not arise. Accordingly, the petitioner has not made out a case. The petitions stand disposed of. If the petitioner approaches the Educational Tribunal or a Competent Court, the Competent Court is hereby directed to consider the petitioner's application or petition and disposed off within a reasonable

period of six months from the receipt of copy of the application/petition to be filed by the petitioner.

Both the parties are directed to co-operate in deciding the petitioner's application or petition.

February 27,2018
kd

(P.B. BAJANTHRI)
JUDGE