

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

(284+285)

CWP-957-2019

Date of Decision: August 19, 2019

DAV Colleges Retired Teachers Association (Regd) .. Petitioner

Versus

State of Punjab and others

.. Respondents

(2)

CWP-1489-2019

DAV Colleges Retired Teachers Association (Regd) .. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajinder Goyal, Advocate, for the petitioner.
(in both the writ petitions)

Mr. Navdeep Chhabra, DAG, Punjab,
for respondents No. 1 and 2.

None for respondents No. 3 and 4.

Mr. R.S. Dadwal, Advocate, for
Mr. Aman Chaudhary, Advocate, for respondents No. 5 to 8,
(in CWP No.957 of 2019) and for respondents No. 6 to 22,
(in CWP No.1489 of 2019).

Mr. Vishal Khatri, Advocate, for
Mr. Vipul Jindal, Advocate, for respondent No.5
(in CWP No.1489 of 2019).

HARSIMRAN SINGH SETHI, J.(ORAL)

By this common order, two writ petitions, which involve the same question of law and similar facts, the details of which have been given in the heading, are being disposed of.

In these writ petitions, the grievance of the members of the petitioner-Association is against the managing committee of the privately managed aided colleges where they are working in respect of the grant of

contributory provident fund and the interest on the arrears of the pay. The grievance which is being raised by the petitioner is qua the management of the institution for the reason that it is only the employer, who pays the salary and the contributory provident fund after the retirement of an employee.

Learned counsel for the respondents argue that the present writ petition is not maintainable at the first instance before this Court keeping in view the order passed by the Division Bench in **CR No.4315 of 2012 titled as Management of S.D. Model Senior Secondary School and another Vs. District Judge-cum- Service Tribunal and another, decided on 27.11.2013** and thereafter, by this Court in **CWP No.25942 of 2012 titled as Suresh Sharma Vs. State of Punjab and others, decided on 11.04.2019**, wherein it has been held that an employee, who has any dispute with the management of an institution where he/she was serving, has to raise the said grievance before the Educational Tribunal. The relevant portion of the judgment in **Suresh Sharma's (supra)** is as under:-

“Apart from this, the similar objection have been taken with regard to the maintainability of the writ petition in respect of the employees of the aided and unaided colleges seeking relief against the management in writ petition filed before this Court. A Coordinate Bench while dealing with the same objection after noticing the earlier orders passed by this Court on the same question of law while deciding CWP No.19854 of 2014 held that the writ petition is not maintainable where, an employee of aided and unaided institution is seeking relief against the management and the appropriate remedy at the first instance is before the Educational Tribunal. The order passed by the Coordinate Bench in CWP No.19854 of 2014 titled as Sanjay Dabas and

others Vs. The Director General of Police, Haryana and others, decided on 19.02.2018, is as under:-

“1. Without going into the merits of the claim seeking pay benefits under the 6th Pay Commission or the character of the respondent school this case would have to be remitted to the Educational Tribunal exercising territorial jurisdiction over the dispute. The designated authority in Haryana to hear cases of all disputes between the management and staff is the District Judge of the respective district/Sessions Divisions. There is ample judicial authority that disputes have to be sent to the Tribunal for determination which include the Division Bench judgment of this Court in Management of S.D. Model Senior Secondary School and another v. District Judge-cum-Service Tribunal and another, 2014 (1) S.C.T 652, the Division Bench in LPA No.1172 of 2013 in case titled Governing Body/Managing Committee and another v. Punjab School Education Board and others, decided on July 08, 2013 and a number of Single Benches in CWP No.12904 of 2013, Sandeep Pilania v. Arya Pritinidhi Shabha, Dayanand Math, Rohtak and others, decided on September 01, 2017; CWP No.11506 of 2013, Kanchan Sharma v. State of Haryana and others, decided on September 20, 2017; CWP No.58 of 2014, Sumit Kumar and others v. State of Haryana and others, decided on November 04, 2016 and lastly CWP No.4177 of 2015, Dr. Mukul Gupta v. Industrial Finance Corporation of India Limited and others, decided on May 29, 2015 which order and judgment is specific regarding financial benefits in terms of recommendations of the 6th Pay Commission.

2. As a result, the file is remitted to the learned District Judge, Karnal for adjudicating the dispute.

3. Parties are directed to appear before the learned District Judge, Karnal on 16.03.2018.

4. The petition stands disposed of.”

Therefore, it is clear that the consistent view of this Court, keeping in view the provisions of the 1974 Act as

amended from time to time especially sub-clause 12 (7-A) of the 1974 Act, the grievance in respect of a dispute between the employee and the management is to be raised before the Educational Tribunal.

Keeping in view the above, I find force in the preliminary objections which have been raised by counsel appearing on behalf of the private aided institutions that at the first instance, the jurisdiction to try all the disputes between the managing committee and its employees except in the case of claim of gratuity as being claimed under the Payment of Gratuity Act, lies with the Educational Tribunal keeping in view the provisions of the 1974 Act, as amended from time to time especially Section 7-A sub-clause 12 as reproduced hereinbefore.

Resultantly, the petitioner(s) are relegated to the jurisdiction of the Educational Tribunal for the redressal of their grievances.

As the present writ petitions are pending since long before this Court and the pleadings are near completion, on request of counsel for the petitioner, the record of the present writ petitions be sent to the Educational Tribunal for passing appropriate orders.”

Learned counsel appearing on behalf of the petitioner very fairly states that the order passed in **Suresh Sharma's case (supra)** has already been upheld by the Division Bench in **LPA No.892 of 2019 titled as Surinder Krishan Sharma Vs. State of Punjab and others, on 09.05.2019.**

Learned counsel for the petitioner pray that though the reply has not been filed but as the petition is bulky and has been filed by the Association, the record of the present writ petition be sent to the Educational Tribunal, Punjab for adjudication.

Learned counsel for the respondents have no objection in case

the record of this case be sent to the Educational Tribunal for passing

appropriate orders.

Keeping in view the request made by counsel for the parties, let record of the present writ petition be placed before the Educational Tribunal, Punjab for passing appropriate orders on the claim raised by the petitioner.

Parties are directed to appear before the Educational Tribunal, Punjab on 15.10.2019.

In view of the above, present writ petitions stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

August 19, 2019
harsha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No