

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

Sr. No.201

**CWP No.13754 of 1995 (O&M)
DECIDED ON: July 11, 2019**

NARATA RAM AND OTHERS

..PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

Mr. R.K. Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate,
for respondents No.3 & 4.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioner is for regularization of his service and grant of equal pay for equal work. The claim of the petitioner is against respondent No.3 which is privately managed aided institution.

Senior counsel appearing on behalf of the respondents No.3 & 4 raises a preliminary objection qua the maintainability of the present writ petition keeping in view the order passed by the Division Bench in Civil Revision No.4315 of 2012 titled as *Management of S.D. Model Senior Secondary School & another vs. District Judge-cum-Service Tribunal & another* decided on 27.11.2013.

Senior counsel argues after placing reliance upon the said judgment that the claim of the employee against the management and all disputes except gratuity will lie before the Educational Tribunal. The relevant paragraphs of the judgment is as under:-

In view of the above discussion, we concluded as under:

(i) That an Educational Tribunal constituted in terms of the direction of the Supreme Court in TMA Pai Foundation and others Vs. State of Karnataka (2002) 8 SCC 481, will not have the jurisdiction to decide issue of payment of gratuity, as the same is payable to the teaching and non-teaching staff in terms of the [Payment of Gratuity Act, 1972](#).

(ii) In respect of second question, the 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. Such right to appeal is not arising in view of the judgment in T.M.A.Pai Foundation's case (supra), but in exercise of the executive powers of the State.

(iii) The State Government shall consider appropriate amendments in the Haryana School Education Act, 1995 in the light of statement made by Mr. Poonia before this Court expeditiously.

(iv) Since the controversy regarding the Forum for adjudication of disputes relating to payment of gratuity has been settled now, it shall be open to the aggrieved persons to seek redressal under the [Payment of Gratuity Act, 1972](#) in accordance with law, if the same is availed within two months from today. The payment deposited by the petitioners shall be subject to the decision of the Authority under the [Payment of Gratuity Act](#).

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Senior counsel on behalf of respondents No.3 & 4 further states that during the pendency of the writ petition which was filed in the year 1995, keeping in view the notification which has been issued by the Government of Haryana-respondent dated 03.08.2008, which were reiterated again on 07.05.2013 to argue that the jurisdiction to decide all the disputes between the management and the employee lies before Educational Tribunal at the first instance.

Division Bench of this Court in ***Management of S.D. Model Senior Secondary School's case (supra)*** after noticing these instructions held that all the disputes between the employee and the management except the claim of the gratuity are to be decided by the educational tribunal.

Admittedly, the claim of the petitioner in the present writ petition is against a privately managed aided institution and therefore, the same is liable to be considered by the Educational Tribunal.

Let the record of the present writ petition be sent to the Educational Tribunal, Kaithal for passing appropriate order on the claim being raised by the petitioner in the present writ petition.

The present writ petition stands disposed of.

July 11, 2019
Ankur

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No