

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

(202)

CWP-19497-2010 (O&M)

Date of Decision: July 16, 2019

Sukhbir Singh Dalal (through LR's)

.. Petitioner

Versus

Board of Management, Chhotu Ram Ploytechnic, Rohtak and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Sr. Advocate, with
Mr. S.K. Rana, Advocate, for the petitioner.

Mr. Vikrant Attri, Advocate, for
Mr. Dheeraj Chawla, Advocate, for respondents No. 1 and 2.

Mr. Charanjit Singh Bakhshi, Addl. A.G., Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioners is for the grant of revised pay scale w.e.f 01.01.2006. The claim of the petitioners is against the Board of Management, Chhotu Ram Polytechnic, Rohtak, where the petitioners were working and the management is the employer of the petitioners.

At the outset, an objection has been raised by the counsel appearing on behalf of respondents No. 1 and 2 about the maintainability of the present writ petition before this Court in view of the law laid down by the Division Bench of this Court 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.**

Learned counsel for the respondents argues that keeping in view the decision of the Division Bench, an employee who has a grievance against the management, has to approach the Educational Tribunal for the

redressal of the grievance except in case of gratuity where an employee has to approach the authority under the Payment of Gratuity Act, 1972. The relevant portion 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 T.M.A Pai Foundation's case (supra), 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.

Learned counsel for the petitioners prays that keeping in view the objection raised by respondents No. 1 and 2, he be allowed to approach the Educational Tribunal, Rohtak for the redressal of the grievance as being

raised in the present writ petition.

Learned senior counsel for the petitioners, however, submits that as the writ petition was filed in the year 2010 which was later on amended in the year 2016 and replies have already been filed, let the record of this writ petition be sent to the Educational Tribunal, Rohtak for deciding the claim as being raised by the petitioners in the present writ petition.

Learned counsel for the State as well as learned counsel for respondents No. 1 and 2 does not have any objection on the plea raised by learned senior counsel for the petitioners for sending the record of this case before the Educational Tribunal, Rohtak.

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

Parties are directed to appear before the Educational Tribunal, Rohtak on 02.09.2019.

In view of the above, present writ petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

July 16, 2019
harsha

Whether speaking/reasoned: Yes
Whether reportable: No