

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18695-2012

Date of decision: - 28.11.2019

Dr. K.V. Sharma and another

....Petitioners

Versus

Kurukshetra University and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Ms. Jasmeet Kaur, Advocate, for the petitioners.

Mr. D.S. Nagar, Advocate, for Mr. A.S. Virk, Advocate
for respondent No.1.

Mr. Pardeep Bajwa, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI, J. (ORAL)

The claim in the present writ petition is for issuance of a direction to respondent No.2 for the release of provident fund amount, which was paid less to the petitioner alongwith interest from the date the same became due till the realization of the same alongwith costs/interest.

Learned counsel appearing on behalf of respondent No.2 states that the grievance of the petitioner is against Governing Body of Dyal Singh College Karnal, which is an aided institution and the jurisdiction to decide the present controversy, at the first instance, lies with the Educational Tribunal in view of the settled principle of law settled by a Division Bench of this Court in case titled as **Management of S.D. Model Senior Secondary School & another Vs. District Judge-**

cum-Service Tribunal and another, 2014(1) S.C.T. 652, wherein, it has been held that Educational Tribunal created in view of the judgment of Hon'ble Supreme Court in T.M.A. Pai Foundation & others Vs. State of Karnataka & others, (2002) 8 SCC 481, have the jurisdiction to decide all the disputes between Management and its employees at the first instance. The relevant portion of the said judgment is as under: -

“23. 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.

Since the questions of law have been answered, the matter be placed before the learned Single Bench for appropriate

decision.”

Faced with objection raised by the learned counsel for respondent No.2, counsel for the petitioners states that petitioners be relegated to the Educational Tribunal, Karnal.

Counsel for the petitioners prays that as the present writ petition was filed in the year 2012 and the pleadings in the writ petition are almost complete, let the record of this writ petition be sent to the Educational Tribunal, Karnal for passing the appropriate orders as filing of the same pleadings before the Educational Tribunal, Karnal will waste the precious time of the Tribunal as well.

Counsel for the respondents have no objection for the grant of the said prayer.

In view of the above, as prayed for by learned counsel for the petitioners, the petitioners are relegated to avail the remedy before the Educational Tribunal, Karnal. Let the record of the present writ petition be sent to the Educational Tribunal, Karnal, for passing an appropriate order in respect of the grievance raised by the petitioners in the present writ petition.

Parties are directed to appear before the Educational Tribunal, Karnal on 27.01.2020.

Present writ petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

November 28, 2019
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No