

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

(219)

CWP-14710-2016

Date of Decision: May 15, 2019

Shyam Sunder Joshi

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.S. Maanipur, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Mr. Raman B. Garg, Advocate, with
Ms. Gitanjali Chhabra, Advocate, for respondents No. 4 and 5.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the claim of the petitioner is for the grant of interest on the delayed retiral payments as well as salary.

The claim of the petitioner is against respondent No.4, which is a privately managed Government aided school.

Learned counsel for respondents No. 4 and 5 raise a preliminary objection that the present writ petition is not maintainable before this Court at the first instance keeping in view the notification dated 07.05.2013 issued by the Government of Haryana, which has already interpreted 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 as per the decision of the Division Bench, except in the case of grant of gratuity, all other disputes between an employee and the management petition will lie before the Educational Tribunal as constituted by the Government of Haryana. 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.

Keeping in view the preliminary objection raised, learned counsel for the petitioner states that he be relegated to the Educational Tribunal.

Learned counsel for the petitioner states that as the pleadings in this case are complete, let record of the present writ petition be sent to the Educational Tribunal, Yamuna Nagar at Jagadhari for appropriate decision.

Keeping in view the request made by counsel for the petitioner, record of the present writ petition be sent to the Educational Tribunal, Yamuna Nagar at Jagadhari.

Parties are directed to appear before the Educational Tribunal, Yamuna Nagar at Jagadhari on 30.07.2019.

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

(HARSIMRAN SINGH SETHI)
JUDGE

May 15, 2019
harsha

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