

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16891 of 2015
Date of decision : 20.09.2019

Shanta Mehta

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

Mr. Rajdeep Singh Cheema, Advocate for respondent No. 3.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance which is being raised by the petitioner is that the Management of respondent No. 3-College is not releasing the benefit of leave encashment and other retiral benefits, which is arbitrary and illegal.

Learned counsel for respondent No. 3 states that the claim of the petitioner in the present writ petition is against the Management and as per the settled principle of law settled by the Division Bench in the case of ***Management of S.D. Model Senior Secondary School and another Vs. District Judge-cum- Service Tribunal and another***, decided on 27.11.2013, all the disputes between the Management and the employees are to be raised before the Educational Tribunal at the first instance. 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 petitioner is not able to distinguish the said judgment and prays that the petitioner be relegated to avail her remedy before the Educational Tribunal, Karnal

Learned counsel for the petitioner prays that as this writ

petition is pending since 2015 and the reply on behalf of respondent Nos. 2 and 3 have also been filed, let the paper book of this writ petition be sent to Educational Tribunal, otherwise, the same pleadings will have to be filed before the Educational Tribunal again, which will waste the precious time of the Tribunal as well.

Learned counsel for the respondents has no objection for the grant of this prayer.

Keeping in view the above, petitioner is relegated to have her remedy before the Educational Tribunal. Let the paper book of this petition be sent to the Educational Tribunal for passing appropriate order keeping in view the relief claimed therein.

Parties are directed to appear before the Educational Tribunal, Karnal on 30.10.2019.

September 20, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*
Whether reportable? *No*