

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17012 of 2015
Date of Decision : 10.04.2019

Renu Bala Aggarwal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Varinder Shukla, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Sameer Sachdeva, Advocate for respondent No. 3.

Mr. Nishant Kumar, Advocate for
Ms. Alka Chatrath, Advocate for respondent No. 4.

Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the claim of the petitioner is with regard to the grant of service benefits upon retirement against the Managing Committee of the Private Aided College.

Learned counsel for respondent No. 3 has taken preliminary objection that the present writ petition is not maintainable before this Court at the first instance. Learned counsel for respondent No. 3 states that as per the law laid down by the 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,***

the jurisdiction to decide all the service disputes between a Managing

Committee and an employee except in the case of the Gratuity will lie to the Educational Tribunal and the cases with regard to the gratuity, the same will lie before the appropriate authority under the Payment of Gratuity Act, 1972. The relevant paragraph of the judgment passed by the Division Bench 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.”

In view of the objections raised by counsel for respondent No. 3, counsel for the petitioner states that the record of this case be sent to the Educational Tribunal for passing an appropriate order on the plea, which has been raised by the petitioner in the present writ petition.

In view of the statement made, let the record of this case be placed before the Educational Tribunal, Punjab for appropriate order(s) on the plea raised by the petitioner in the present writ petition.

April 10, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? Yes
Whether reportable? No