

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17044 of 2015

Date of decision: 06.11.2019

Vijay Chauhan

.... Petitioner

versus

State of Haryana and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

Mr. Deepak Bamel, Advocate for
Mr. Amit Khatkar, Advocate
for respondents No.4 and 5.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the grievance of the petitioner is only against the Managing Committee i.e. respondent No.5 with regard to the selection to the post of Assistant Professor in Political Science.

Counsel for respondent No.5 argues that the jurisdiction to adjudicate all the disputes between the Managing Committee and its employees lies with the Educational Tribunal at the first instance 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, will 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 this situation, learned counsel for the petitioner prays that the petitioner be relegated to the Educational Tribunal, Yamuna Nagar at Jagadhri for redressal of his grievance. Learned counsel for the petitioner further prays that the present writ petition is pending since 2015 and the pleading are complete, thus, the paper book of this petition be sent to the Educational Tribunal, Yamuna Nagar at Jagadhri so that the valuable time is not wasted in filing the same pleadings before the Educational Tribunal again.

Counsel for the respondents has no objection for the grant of said

prayer.

In view the request made by counsel for the parties, let the record of the present writ petition be sent to the Educational Tribunal, Yamuna Nagar at Jagadhri, for passing the appropriate decision in respect of the grievance raised by the petitioner in the present writ petition.

Parties are directed to appear before the Educational Tribunal, Yamuna Nagar at Jagadhri on 17.12.2019

06.11.2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |