

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

(203) CWP-20575-2014
Date of Decision: April 02, 2019

Krishan Singh .. Petitioner

Versus

State of Punjab and others .. Respondents

(2) CWP-20769-2014

Manjit Singh Bajwa .. Petitioner

Versus

State of Punjab and others .. Respondents

(3) CWP-21275-2014

Parvesh Kumar Sood .. Petitioner

Versus

State of Punjab and others .. Respondents

(4) CWP-20886-2014

Gian Singh Ahluwalia .. Petitioner

Versus

State of Punjab and others .. Respondents

(5) CWP-21435-2014

Parshotam Lal Bagga .. Petitioner

Versus

State of Punjab and others .. Respondents

(6) CWP-21324-2014

Manjit Singh Chana .. Petitioner

Versus

State of Punjab and others .. Respondents

(7)

CWP-20896-2014

Dass Ram

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Sharma, Advocate, for the petitioner(s).

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

Mr. Rahul Sharma, Advocate, for respondents No. 3 and 4.

HARSIMRAN SINGH SETHI, J.(ORAL)

In these bunch of writ petitions, the grievance being raised by the petitioners is against the private aided institution for the enhancement of the gratuity, pay scale and the leave encashment.

Learned counsel for the respondents has taken a preliminary objection that the present writ petitions are not maintainable at first instance before this Court keeping in view the law laid down by the Division Bench of this Court in **Management of S.D. Model Senior Secondary School & another Vs. District Judge-cum-Service Tribunal and another, 2014 (1) S.C.T. 652.**

Learned counsel for the respondents further states that with regard to the gratuity, the petitioner(s) have to make their claim under the Payment of Gratuity Act, 1972.

Learned counsel for the petitioner(s) states that once the notice of motion has been issued in these writ petitions and the same are pending before this Court for the last four years, the petitioner(s) should not be relegated to the Educational Tribunal.

A Division Bench of this Court in **Management of S.D. Model Senior Secondary School & another Vs. District Judge-cum-Service Tribunal and another, 2014 (1) S.C.T. 652**, has already held that in respect of all the service matters, the Educational Tribunal have the jurisdiction to adjudicate upon at the first instance except in respect of the payment of gratuity. The relevant paragraph of the 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.”

Learned counsel for the petitioner is unable to rebut the above said settled principle of law and faced with this situation, requests that the record of the present writ petitions be sent to the Educational Tribunal for passing appropriate orders.

Learned counsel for the respondents have no objection if the record of these petitions is sent to the Educational Tribunal for passing appropriate orders in respect of the relief claimed therein except gratuity.

The petitioner(s) are free to avail their appropriate remedy in respect of gratuity before the authorities under the Payment of Gratuity Act, 1972.

In view of the above, the record of the present writ petitions be sent to the Educational Tribunal for passing appropriate order(s) in respect of all the pleas raised by the petitioner(s) therein except in case of gratuity. For gratuity, the petitioner(s) will approach the appropriate authority under the Payment of Gratuity Act, 1972.

Parties are directed to appear before the Educational Tribunal on 21.05.2019.

All the writ petitions stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

April 02, 2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No