

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20209 of 2016
Date of Decision : 07.03.2019

Satnam Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gagan Pardeep Singh Bal, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Nitin Verma, Advocate for

Mr. Sameer Sachdeva, Advocate for respondent No. 4.

Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the grievance, which is being raised by the petitioner is for release of the benefits, for which he is entitled for, after working in a Private Aided College i.e. respondents No. 3 and 4 in the present writ petition.

Learned counsel for the respondents have raised a preliminary objection that the present writ petition is not maintainable before this Court and the petitioner has an alternate remedy of approaching the Educational Tribunal, therefore, the petitioner should be relegated to the said remedy.

As per the settled principle of law settled 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**, wherein, it has been held that in view of the

judgment of Ho'nble the Supreme Court in **T.M.A. Pai Foundation & others Vs. State of Karnataka & others, (2002) 8 SCC 481**, the disputes in respect of the claim against the Private Aided Institutions are to be decided by the Education Tribunal at the first instance. All service disputes are within the domain of Educational Tribunal set up by the State of Punjab. 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.”

Learned counsel for the petitioner has not been able to rebut that jurisdiction to entertain the petition at the first instance lies with the Educational Tribunal. He requests that the record of the present writ petition be sent to the Educational Tribunal for passing appropriate order.

In view of the above, record of the present writ petition be sent to the Educational Tribunal for appropriate decision as the matter is within the jurisdiction of the said authority.

Parties are directed to appear before the Educational Tribunal on 30.04.2019.

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

March 07, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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