

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

CWP-4296-2012

Date of decision: - 27.05.2019

Pankaj Bakshi

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.D. Bawa, Advocate,
Mr. Randhir Bawa, Advocate
and Mr. Rohit Sharma, Advocate,
for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

None for respondent No.2.

HARSIMRAN SINGH SETHI, J. (ORAL)

Present petition has been filed for challenging the order dated 17.03.2011 (Annexure P-15), which has been passed by the Mukand Lal National College, Yamuna Nagar, Haryana-respondent No.2. By the said order, petitioner was informed that all the retiral benefits in respect of the service rendered by Sh. D.D. Bhardwaj have already been released and therefore, no further amount is pending towards the petitioner.

At the outset, counsel for respondent-State states that the grievance of the petitioner is against respondent No.2, which is an aided institution. Though, the father of the petitioner was working against an

unaided post, therefore, the jurisdiction to decide the present controversy at the first instance lies with the Educational Tribunal 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, jurisdiction to decide all the disputes between Management and its employees is with the Educational Tribunal. 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.”

I have heard learned counsel for the parties and have gone the record with their able assistance.

Keeping in view the notification issued by the Government of Haryana, whereby, the Educational Tribunals were created for providing an avenue for the employees working in the aided as well as unaided institutions to raise their grievances against the Management. The Division Bench of this Court in Management of S.D. Model Senior Secondary School & another case (supra), held that all the disputes between the Management and employee will lie before the Educational Tribunal.

Faced with this situation, counsel for the petitioner prays that as the present writ petition was filed in the year 2012, before the creation of the Educational Tribunal and the pleadings in the present writ petition are almost complete, let the record of this petition be sent to the Educational Tribunal, Yamuna Nagar at Jagadhri for passing the appropriate orders on the pleas of the petitioner as raised in the present writ petition.

Counsel for the respondent-State has no objection for the

grant of the 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 29.07.2019.

May 27, 2019
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No