

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20836 of 2016

Date of Decision : 27.03.2019

Sudha Jain

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Chaudhary, Advocate for
Mr. K.L. Dhingra, Advocate for the petitioner.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

Ms. Janya Sirohi, Advocate for
Mr. Akshay Jindal, Advocate for respondent No. 4.

Harsimran Singh Sethi, J.(Oral)

Written statement on behalf of respondents No. 1 to 3 has been filed in Court today. The same is taken on record.

The present petition has been filed by the petitioner seeking the grant of DCRG and other admissible benefits.

The petitioner was working with respondent No. 4-School, which is an aided school. As per the judgment of 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**, the jurisdiction in respect of all the disputes between the employees and the Management of the Private Aided Schools lies with the Educational Tribunal. The relevant paragraph 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.”

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 15.05.2019.

The present writ petition stands disposed of.

March 27, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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