

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 21942 of 2016  
Date of Decision : 27.03.2019

**Madhu Bala Mittal**

**...Petitioner**

**Versus**

**Ex Management of Sanatan Dharam High School, Ambala Cantt.  
through Professor Tara Chand and others**

**...Respondents**

***CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Vikram Bali, Advocate for the petitioner.

Ms. Puneet Bansal, Advocate for  
Mr. Pankaj Jain, Advocate for respondents No. 1 and 2.

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

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**Harsimran Singh Sethi, J.(Oral)**

In the present writ petition, the order dated 23.08.2016 (Annexure P-8) is impugned by the petitioner by which the School has replied to the legal notice served by the petitioner. The grievance which has been raised by the petitioner is that there is no Managing Committee of the respondent-School and, therefore, 25% of the share which the Management has to pay in respect of the pay of the petitioner is not being released by the respondents. The claim of the petitioner is only qua the Management in respect of her 25% share.

Learned counsel for the respondents during the course of hearing has taken an objection that the present writ petition is not maintainable at the first instance before this Court keeping in view of 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 states that as per the said judgment, the jurisdiction in respect of the claim of an employee against the Management lies 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.”*

Keeping in view the above facts, learned counsel for the petitioner requests that the record of the present writ petition be sent to Educational Tribunal for passing an appropriate order, otherwise, it will further delay the matter.

In view of the request, record of the present writ petition be sent to the Educational Tribunal, Ambala for passing an appropriate order in respect of the claim made by the petitioner in the present writ petition.

It is, however, clarified that in respect of the claim of the gratuity, the petitioner has to approach the appropriate authority under the Payment of Gratuity Act, 1972 for the reason that Educational Tribunal does not have the jurisdiction to try the claim in respect of gratuity as noticed by the Division Bench.

Parties are directed to appear before the Educational Tribunal, Ambala 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*