

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-22048-2016

Neelam GahalyanPetitioner

Versus

State of Haryana and others ..Respondents

2. CWP-18826-2017

Neelam GahalyanPetitioner

Versus

State of Haryana and others ..Respondents

Date of decision: - 31.10.2019

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. Vaibhav Sharma, Advocate
for Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Mr. Rana Gurtej Singh, Advocate
for Mr. Alok Mittal, Advocate
for respondent No.4 in CWP-22048-2016.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, above-mentioned two Civil Writ
Petitions are being disposed of in the light of common question of law
and similar facts involved.

In both the writ petitions, the challenge is to the action of Tau Devi Lal Memorial College of Education-respondent No.4. In CWP-22048-2016, petitioner has been removed from service, vide order dated 15.10.2016 (Annexure P-11), which action has been impugned and in CWP-18826-2017, impugned letter dated 24.06.2017 (Annexure P-28) passed by the same College, has been impugned by which the petitioner has been dismissed from service.

At the outset, counsel for respondent No.4 states that the grievance of the petitioner is against Tau Devi Lal Memorial College of Education-respondent No.4, which is an aided institution and 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, have the jurisdiction to decide all the disputes between Management and its employees at the first instance. 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.”

Faced with objection raised by the learned counsel for the respondents, counsel for the petitioner states that petitioner be relegated to the Educational Tribunal, Panipat. Counsel for the petitioner further prays that as the present writ petitions were filed in the year 2016 and 2017 respectively and the pleadings in both the writ petitions are almost complete, let the record of this petition be sent to the Educational Tribunal, Panipat for passing the appropriate orders on the pleas of the petitioner as raised in the present writ petitions.

Counsel for the respondents have 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 petitions be sent to the Educational Tribunal, Panipat, for passing an appropriate order in respect of the grievance raised by the petitioner in the present writ petitions.

Parties are directed to appear before the Educational Tribunal, Panipat on 18.12.2019.

Present writ petitions stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

October 31, 2019
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No