

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

CWP-23787-2015 (O&M)

Date of decision: - 16.07.2019

Raman

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Charanjit Singh Bakhshi, Addl. A.G., Haryana.

Mr. Jitender Dhanda, Advocate
for respondent No.7.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance which is being raised by the petitioner, who is an employee of respondent No.5-C.R. Jaat Education Society, Hisar, is qua the seniority list in the cadre of TGT Science.

At the outset, counsel for respondent No.5 states that 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, has 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.”

Faced with this situation, counsel for the petitioner prays that he may be allowed to withdraw the present writ petition with a liberty to the petitioner to approach the Educational Tribunal, Hisar, for the redressal of his grievance.

Dismissed as withdrawn, with the liberty, as prayed for.

All the applications pending become infructuous in view of the order so passed.

(HARSIMRAN SINGH SETHI)
JUDGE

July 16, 2019
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Whether reasoned/speaking?	Yes
Whether reportable?	No