

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

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**CWP No.18321 of 2018
Date of decision: 08.03.2019**

Rustam Devi

..Petitioner

Vs.

State of Punjab and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Charu Sharma, Advocate
for Mr. G.S. Bajaj, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. AG, Punjab.

Mr. Gurpreet Singh Gurna, Advocate
for Mr. H.S. Dhindsa, Advocate
for respondent No. 3.

Mr. Karambir Singh Chawla, Advocate
for respondent No. 4.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the prayer of the petitioner is that respondents No. 3 and 4 be directed to make the payments of the gratuity to the petitioner. Respondent No.4 is an Aided College and the jurisdiction in respect of raising grievance against the said Aided College lies before the Educational Tribunal, Punjab. This Court in **CWP No. 1896 of 2019, decided on 05.02.2019** has held that all the service disputes between the employees and the Aided Colleges/Schools lie before the Educational Tribunal. A Division Bench of this Court in **Management of S.D. Model Senior Secondary School and Another Vs. District Judge-cum-Service Tribunal and Another 2014(1) S.C.T. 652** has already held that all the service disputes between the employees and the Aided

Colleges/Schools lie before the Educational Tribunal, which has been created in implementation of the judgement of the Hon'ble Supreme Court of India in **T.M.A. Pai's** case. 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.”

Counsel for the petitioner is unable to convince this Court that the present writ petition is maintainable before this Court.

Faced with above situation, counsel for the petitioner states that let the record of this petition be sent to the Educational Tribunal for passing appropriate orders.

Parties are directed to appear before the Educational Tribunal, Punjab on 30.04.2019.

In view of the above, present writ petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

March 08, 2019

Poonam Sharma

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No