

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25722 of 2014

Date of decision: 03.12.2019

Dr. Dinesh

.... Petitioner

versus

State of Haryana and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Arora, Advocate
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for respondent No.2.

Mr. Puneet Sharma, Advocate
for respondent No.3.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the claim of the petitioner is against respondent No.3, which is a private unaided institution. The prayer of the petitioner is that though, the petitioner had already retired in the year 2011, but the gratuity, provident fund and leave encashment as well as benefit of senior scale for the period, when the petitioner has served respondent No.3, has not been released to him,

Learned counsel for the respondent raises a preliminary objection that respondent No.3 is an unaided institution and, hence, is not amenable to writ jurisdiction of this Court. Learned counsel for the respondents further

argues that in view of the judgment passed by Division Bench of this Court in Management of S.D. Model Senior Secondary School and another vs. District Judge-cum-Service Tribunal and another, the writ petition is not maintainable as the jurisdiction to adjudicate any dispute between the employees and the management of any educational institution, except the claim of gratuity, is with the Educational Tribunal. Relevant paragraph of the judgment is as under:-

“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)(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)(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)(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.

Faced with this situation, learned counsel for the petitioner prays

that he be allowed to withdraw the present petition with liberty to avail his remedy as available under the law before the Educational Tribunal or before the Controlling Authority under the Payment of Gratuity Act, 1972 as the case may be.

Dismissed as withdrawn with liberty as prayed for.

(HARSIMRAN SINGH SETHI)
JUDGE

03.12.2019
aarti

- | | | |
|----|--------------------------------|--------|
| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |