

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 259

Civil Writ Petition No.25018 of 2016 (O & M)
Date of Decision: *March 25, 2019*

Vijay Kumari

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

. . .

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

. . .

PRESENT: - Mr. H.S. Bedi, Advocate, for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Punjab, for
the respondents.

. . .

Harsimran Singh Sethi, J (Oral)

In the present writ petition, claim of the petitioner is for grant of interest on the delayed payment of retiral dues. The claim is against respondent No.3 – School.

Though, no reply has been filed so far to the writ petition but counsel for the respondents states that the jurisdiction in respect of the claim made by the petitioner at first instance lies with the Educational Tribunal keeping in view the order passed by the Division Bench of this Court in **Management of S.D. Model Senior Secondary School & another vs. District Judge – cum- Service Tribunal & another**, reported as **2014(1)**

S.C.T. 652 held that except the claim of gratuity, all the service disputes lie before 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.”

Counsel for the respondents very fairly states that let the record of the present writ petition be sent to the Educational Tribunal for passing an appropriate order on the claim being made by the petitioner.

Ordered accordingly.

Let parties appear before the Educational Tribunal (Panchkula) on 08.05.2019.

Disposed of.

March 25, 2019
avin

(Harsimran Singh Sethi)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No