

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

243

CWP No.25038 of 2016

Date of Decision: March 14, 2019

Gurmeet Kaur

.....Petitioner(s)

versus

State of Punjab and others

.....Respondent(s)

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

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Present: Mr. R.D. Bawa, Advocate with  
Mr. Randhir Bawa, Advocate;  
Mr. Samuel Gill, Advocate and  
Mr. Rohit Sharma, Advocate for the petitioner(s).

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Amrit Paul, Advocate for respondent No.3.

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**HARSIMRAN SINGH SETHI , J. (Oral)**

In the present writ petition, the claim of the petitioner is against respondents No.4 and 5 which are the privately Aided College.

2. Learned counsel for the respondents states that as per the order passed by Division Bench, all the service disputes between the management and an employee are to be decided by the Educational Tribunal. While deciding CR No. 4315 of 2012, titled “**Management of S.D. Model Senior Secondary School & anr. Vs. District Judge-cum-Service Tribunal & anr**”, the Division Bench held as followed:-

“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."*

3. A bare perusal of the above order would show that except for grant of gratuity, all the other service disputes are to be decided by Educational Tribunal, which exist between the management and an employee.

4. In the present case, the claim of the petitioner is with regard to the grant of relief against the management, which is clear from the prayer clause.

5. In view of the above, the present petitioner is relegated to avail remedy before the Educational Tribunal.

6. Let the record of this petition be sent to the Educational Tribunal for passing appropriate orders. The parties are directed to appear before the Educational Tribunal, Punjab on 30.04.2019.

March 14, 2019  
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[ HARSIMRAN SINGH SETHI ]  
JUDGE

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|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |