

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

(237)

CWP-25056-2016

Date of Decision: May 01, 2019

Shashi Kiran Batra

.. Petitioner

Versus

Mata Misri Devi DAV College and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vaibhav Gupta, Advocate, for
Mr. K.K. Gupta, Advocate, for the petitioner.

Mr. R.S. Cheema, Advocate, for respondents No. 1 & 2.

Mr. Surinder Garg, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is against Mata Misri Devi D.A.V. College, Giddarbaha, which is an aided school.

Learned counsel for the petitioner *inter alia* states that the prayer of the petitioner is that the leave encashment for 25 days has wrongly been deducted by the Managing Committee, which is arbitrary and liable to be refunded. Counsel argues that further, a sum of Rs.75,172/- was recovered from the retiral benefits without giving any opportunity of hearing, which is illegal. Further, prayer of the petitioner is for the release of the benefits of the revised pay scale as well.

Learned counsel for the respondents states that the claim of the petitioner is against the management of a private aided institution and as per sub-clause 12 of 7-A of the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974, in case of any disputes between the Managing

Committee and its employees, the claim is to be made before the Educational Tribunal at the first instance. Section 7-A (12) is as under:

“(12) The Educational Tribunal shall have jurisdiction to hear all cases of disputes between the 'Managing Committee' and the 'employees' as defined in this Act, and the Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979.”

Counsel for the respondents relies upon the order passed by this Court in **CWP No.23440 of 2016 titled as Dr. Rekha Kalia Bhardwaj Vs. The State of Punjab and others, decided on 04.04.2019**, wherein in similar situation, the writ petition was held to be not maintainable before this Court at the first instance and the petitioner was relegated to the Educational Tribunal to pursue her relief.

Faced with this situation, counsel for the petitioner states that as the petition is pending before this Court since 2016 and the reply has already been filed, let the record of this petition be sent to the Educational Tribunal for passing appropriate orders on the relief claimed by the petitioner in the present writ petition.

Counsel for the respondents have no objection for the grant of the said prayer.

In view of the above, let the record of the present writ petition be sent to the Educational Tribunal, Punjab for deciding the claim of the petitioner as raised in the present writ petition by passing appropriate orders.

Let the parties appear before the Educational Tribunal on 03.07.2019.

The present writ petition is disposed of in above terms.

May 01, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No