

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

(301)

CWP-21723-2018

Date of Decision: March 11, 2019

Kuljit Kaur and another

.. Petitioners

Versus

Sikh National College, Banga, SBS Nagar, Punjab. .. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Sharma-I, Advocate, for the petitioner.

Mr. Sumeet Singh, Advocate, for
Mr. Gagneshwar Walia, Advocate, for the respondent.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance/claim of the petitioner is against the respondent-College for the release of the retiral benefits alongwith interest.

Before the counsel for the petitioner begins to argue, an objection has been raised on behalf of the respondent that as per the settled principle of law settled by the Division Bench of this Court in **CR No.4315 of 2012 titled as Management of S.D. Model Senior Secondary School and another Vs. District Judge-cum- Service Tribunal and another, decided on 27.11.2013**, all the service disputes in respect of a College, are to be decided by the Educational Tribunal. The relevant paragraph of the said 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) 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.

Learned counsel for the petitioner states that he has come to know that at present the Tribunal is not functioning due to the absence of the required coram.

Be that as it may, the coram will be complete after the appointment of the required members by the competent authority but in the absence of coram, this Court would not like to confer jurisdiction into itself to decide the matter, which is within the jurisdiction of the Educational Tribunal, unless it is shown that the party will suffer irreparable loss in case this Court does not entertain the writ petition.

Counsel for the petitioner is unable to controvert the law cited above and requests that the paper book of this case be sent to the

Educational Tribunal for appropriate orders.

Let record of this case be placed before the Educational Tribunal for appropriate orders.

Parties are directed to appear before the Educational Tribunal, Punjab on 02.05.2019.

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

March 11, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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