

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23821 of 2017
Date of decision : 16.11.2019

Jaswinder Kaur

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rajinder Goyal, Advocate for the petitioner.

Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab.

Mr. Ramandeep Singh, Advocate for
Mr. Gajender Singh, Advocate for respondent No. 3.

Mr. Binderjit Singh, Advocate for respondents No. 4 to 6.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition the claim of the petitioner is against the Management of a Private Aided School i.e. respondents No. 4 to 6 as the claim of the petitioner for the grant of gratuity and leave encashment and salary of 29 days has been declined by them. The prayer of the petitioner is for directing respondents No. 4 to 6 to grant her the benefit of gratuity, leave encashment and the salary for the month of August, 2016.

At the outset, learned counsel appearing on behalf of respondents No. 4 to 6 raises a preliminary objection with regard to the maintainability of the present writ petition keeping in view the order passed by this Court in ***CWP No. 25942 of 2012*** titled as ***Suresh Sharma Vs.***

State of Punjab and others, decided on 11.04.2019, which has already been upheld by the Division Bench in *LPA No. 892 of 2019* titled as *Surinder Krishan Sharma Vs. State of Punjab and others*, decided on 09.05.2019 wherein it has been held that all the disputes between the Management and the employees are to be decided by the Educational Tribunal at the first instance except the claim of the gratuity for which the petitioner has to approach the Controlling Authority as envisaged under the Payment of Gratuity Act, 1972.

Faced with this situation, learned counsel for the petitioner prays that petitioner be relegated to avail her remedy before the Educational Tribunal, Punjab. Learned counsel further prays that as the writ petition was filed in the year 2017 and all the pleadings are already complete, the record of this writ petition be sent to Educational Tribunal, Punjab as filing of the same pleadings will waste the time of the Tribunal and will also cause prejudice to the petitioner.

Learned counsel for the respondents state that they have no objection if the record of the present case is sent to the Educational Tribunal, Punjab for passing an appropriate order.

Keeping in view the above, petitioner is relegated to avail her remedy before the Educational Tribunal, Punjab.

Let, record of the present writ petition be sent to the Educational Tribunal, Punjab for appropriate orders.

Respondents will be at liberty to raise all the objections, which they deem it fit for consideration of the Educational Tribunal, Punjab.

Parties are directed to appear before the Educational Tribunal,

Punjab on 16.12.2019.

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

November 16, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*
Whether reportable? *No*