

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : 9.12.2019

I.

CWP-517-2016

Yashoda

... Petitioner

VERSUS

Presiding Officer, Labour Court, Ambala and others

... Respondents

II.

CWP-12493-2017

Rajbir

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

III.

CWP-12467-2017

Amar Singh

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

IV.

CWP-12485-2017

Baldev Singh

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

V.

CWP-12963-2017

Sukhdev Singh

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

VI.

CWP-12960-2017

Satwinder

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

VII.

CWP-11017-2017

The Punjab State Hosiery and Knitwear Development Corporation Union
(regd.)

... Petitioner

VERSUS

The Presiding Officer and others

... Respondents

VIII.

CWP-13018-2017

Mukesh Kumar

... Petitioner

VERSUS

President Managing Committee, Aggarsain Public School and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present: Mr. Naveen, Advocate, for
Mr. Rajesh Bansal, Advocate,
for the petitioner.

Ms. Kiran Pal Singh, AAG, Haryana.

Mr. Ashutosh Kaushik, Advocate,
for respondents No.2 and 3.

GIRISH AGNIHOTRI, J.(Oral)

This order shall dispose of the aforesaid 8 (eight) writ petitions by this common order as the facts and law involved in all the above writ petitions are the same. The facts are taken from CWP-517-2016 for convenience and the parties would be referred by their status in this petition.

The petitioners had filed the present writ petition along with other connected petitions with a prayer to set aside order dated 10.9.2015 (Annexure P-1) passed by learned Presiding Officer, Labour Court, Ambala, vide which, claim of the petitioner has been dismissed without any basis and by ignoring the well settled principles of law.

At this stage, learned counsel appearing for respondents No.2 and 3 has handed over a copy of the order passed by this Court on 13.9.2018 passed in CWP-17906-2018 whereby the Court had taken the view that the remedy available to the petitioner-workman is of filing an appeal before learned District Judge, Faridabad as Educational Tribunal. The operative part of the order is reproduced as under : -

“5. To support her contention, learned counsel for the petitioner placed reliance upon the judgment from Hon'ble Division Bench of this Court in Management of S.D. Model Senior

Secondary School and another vs. District Judge-cum-service Tribunal and another, 2014(1) SCT 652, wherein Hon`ble Division Bench observed 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 nonteaching 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 Foudnation'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 seeks 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.”

6. On the same point, reliance was also placed on the judgment from Hon`ble Delhi High Court in Appejay School

Vs. Sh. Darbari Lal and others, W.P.(C) No. 7695 of 1999 decided on 28.05.2010.

7. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record as also the view taken by Hon`ble Apex Court and Hon`ble Delhi High Court in the judgments referred to by learned counsel, this Court is of the considered view that the facts of the present case are entirely different because in this case, the petitioner-workman had challenged her termination and as per the view taken by Hon`ble Division Bench of this Court in Management of S.D. Model Senior Secondary School's case (supra), the Education Tribunal shall not have the jurisdiction in respect of payment of gratuity matter and all the remaining disputes are to be referred to the Educational Tribunal as per decision of Hon`ble Apex Court in T.M.A Pai Foudnation & others Vs. State of Karnataka & others, 2003(2) SCT 385.

8. Learned Tribunal has rightly decided the controversy by returning the reference unanswered with liberty to the workman to avail her remedy of filing an appeal before the learned District & Sessions Judge, Faridabad as Educational Tribunal.

9. Similar view was taken by Hon`ble Division Bench of this Court in Suman Kajla Vs. State of Haryana and others, 2007 (5) SLR 329; and Co-ordinate Benches of this Court in Dr. Mukul Gupta Vs. Industrial Finance Corporation of India Limited and others, 2015(4) SCT 380; and Rashmi Arora Vs. DAV College Managing Committee and others, 2017 (2) SCT 615.

10. In view of the above, there is no merit in the present writ petition and the same stands dismissed in limine.”

It is directed that the petitioner has remedy of filing an appeal before the concerned District Judge as Educational Tribunal.

Learned counsel for the respondents also submits that in case

objection regarding delay before the Tribunal.

In view of the above, the aforementioned writ petitions are also disposed of in the same terms.

December 9, 2019
Paritosh Kumar

(GIRISH AGNIHOTRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No