

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9372 of 2015
DATE OF DECISION:16.09.2019

Pooja

... Petitioner

Versus

The Maharishi Dayanand University, Rohtak and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Tushant Deep Garg, Advocate
for the petitioner.

Mr. R.S. Tacoria, Advocate
for respondent No.1.

Mr. R.S. Cheema, Advocate
for respondents No.2 and 3.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the challenge is to the action of respondent-Managing Committee of DAV College, wherein the approval to the selection of the petitioner as Lecturer in Economics was rejected due to which the College authorities relieved the petitioner from service.

The claim of the petitioner is that once the petitioner was duly selected by the Managing Committee, she could not have been relieved from service on the pretext that the approval to her appointment has not been granted on the ground that the Selection Committee, which selected the petitioner, was not constituted properly.

Counsel for the respondents argues that as the claim of the

petitioner is against the Managing Committee of the DAV College,

which runs respondent No.3-College, therefore, the present writ is not maintainable before this Court and the petitioner is to be relegated to avail her remedy before the Educational Tribunal, Rewari.

Learned counsel for the respondents argues that as the grievance in the present writ petition is against the management of an aided institution, the jurisdiction to adjudicate the same is with the Educational Tribunal at first instance keeping in view 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.** 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.”

A bare perusal of the above would show that except the claim of gratuity, all the disputes between the employee and the management are to be raised before the Educational Tribunal and for gratuity, an employee has to approach the appropriate authority under the Payment of Gratuity Act, 1972.

Faced with this situation, learned counsel for the petitioner prays that the petitioner be relegated to the Educational Tribunal, Rewari for the redressal of her grievance, as raised in the present writ petition.

Learned counsel for the petitioner prays that as this writ petition was filed in the year 2013 and even the pleadings are complete, let the paper book of this writ petition be sent to the Educational Tribunal, Rewari for passing appropriate orders as filing of the fresh pleadings for the same cause of action, will consume time and the same pleadings, which are already on record of this writ petition, will have to be filed again, which will waste the time of Educational Tribunal as well.

Learned counsel for the respondents states that he does not have any objection in case the paper book of this writ petition is

sent to the Educational Tribunal, Rewari for passing appropriate orders.

In view of the above, the petitioner, in the present writ petition, is relegated to avail her remedy before the Educational Tribunal, Rewari in respect of the grievance as raised in the present writ petition.

Let the paper book of this writ petition be also sent to the Educational Tribunal, Rewari for passing appropriate orders.

Parties are directed to appear before the Educational Tribunal, Rewari on 20.11.2019.

The present writ petition is disposed of in above terms.

September 16, 2019
jt

(HARSIMRAN SINGH SETHI)
JUDGE

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