

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3744-2017

Date of decision: - 19.08.2019

Hawa Singh

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Nishant Arya, Advocate for
Mr. S.K. Verma, Advocate for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Ms. Ramandeep Kaur, Advocate for
Mr. R. Kartikeya, Advocate for respondent No. 3.

Mr. Govind Mor, Advocate for
Mr. Jasbir Mor, Advocate for respondent No. 6.

Harsimran Singh Sethi, J. (Oral)

In the present writ petition, the grievance which is being made by the petitioner is that he was an employee of respondent No. 5-Society and was discharging his duties in Jat Senior Secondary School, Jind. The claim of the petitioner is against respondent No. 5 for the payment of provident fund, pension, gratuity and the salary for the period from April, 1997 to March, 1999.

Learned counsel for the respondents states that as the claim

of the petitioner is against Privately Managed Aided Institution, hence the present writ petition is not maintainable keeping in view the order passed 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.**

Division Bench of this Court in **Management of S.D. Model Senior Secondary School and another's case (supra)** in respect of the grievance of an employee against the Managing Committee of a Privately Managed Aided Institution held 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 all the grievance, which an employee has against the management of a Privately Managed Aided Institution, are to be redressed by the Educational Tribunal at the first instance, which has been set up by the Government of Haryana, except where the claim is with regard to the gratuity. In case of claim of gratuity, employee has to approach the Controlling Authority under the Payment of Gratuity Act, 1972.

Faced with this situation, learned counsel for the petitioner prays that he be allowed to withdraw the present writ petition with liberty to approach the Educational Tribunal and other appropriate authorities for the redressal of the grievance of the petitioner.

Dismissed as withdrawn, with the liberty, as prayed for.

(HARSIMRAN SINGH SETHI)
JUDGE

August 19, 2019
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No