

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6935 of 2018
Date of Decision : 11.04.2019

Ramesh Chander Tejpal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. S.K. Sandhir, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Nitin Verma, Advocate for
Mr. Sameer Sachdeva, Advocate for respondent No. 3.

None for respondent No. 4.

Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the grievance of the petitioner in respect of the grant of the pensionary benefits, is against the Private Aided Institution i.e. respondents No. 3 and 4.

Learned counsel for respondent No. 3 argue that the present writ petition is not maintainable before this Court at the first instance keeping in view the law laid down by the Division Bench of this Court in case titled as *Management of S.D. Model Senior Secondary School & another Vs. District Judge-cum-Service Tribunal and another, 2014 (1)*

S.C.T. 652 and the petitioner has to approach Educational Tribunal for the grant of the said relief. The relevant paragraph of the judgment passed by

the Division Bench is as under:-

“23. 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.

Since the questions of law have been answered, the matter be placed before the learned Single Bench for appropriate decision.”

A bare perusal of the above would show that where the

claim of an employee is against the Management of a Private Aided Institution, the jurisdiction at the first instance is with the Educational Tribunal. In the present case, the claim of the petitioner is against the Private Aided Institution i.e. respondents No. 3 and 4.

As per the aforementioned judgment, except gratuity, all the service disputes will lie before the Educational Tribunal. In respect of gratuity, 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 states that the record of this case be sent to the Educational Tribunal, Punjab for passing an appropriate order on the prayer, which has been raised by the petitioner in the present writ petition.

In view of the statement made by learned counsel for the petitioner, let the record of this case be placed before the Educational Tribunal, Punjab for appropriate order(s) on the plea raised by the petitioner in the present writ petition.

Parties through their counsel are directed to appear before the Educational Tribunal, Punjab on 28.05.2019.

April 11, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? Yes
Whether reportable? No