
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

217

CWP-24949-2017 (O&M)

Date of decision : 21.11.2022

Urmila Devi

... Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sourabh Goel, Advocate for the petitioner(s).

Mr. Narender Singh Behgal, AAG, Haryana.

Mr. Jitender Nara, Advocate for respondents No.4 to 7.

Anupinder Singh Grewal, J. (Oral)

The petitioner has sought quashing of the order dated 17.08.2017 (Annexure P-7) whereby a direction has been issued by respondent No.2/Director Secondary Education, Haryana to the Management for termination of the services of the petitioner. She has also challenged the show cause notice dated 21.08.2017 (Annexure P-6) issued by the Management before dispensing her services.

Learned counsel for the petitioner submits that the petitioner is not only challenging the action of the Management but also the action of the State Government for directing the Management to terminate her services holding that the the appointment of the petitioner is illegal. He, therefore, submits that she did not approach the Educational Tribunal and had instead approached this Hon'ble Court as the action of the respondents is in flagrant violation of

principles of natural justice.

Learned counsel for the respondents submits that as the petition has arisen out of a dispute between an employee and the management, it would be adjudicated by the Educational Tribunal in terms of the notification No.24/21-2011-C-IV (3) dated 02.03.2015 issued by the Higher Education Department, Government of Haryana. He also submits that in pursuance to an interim order passed by this Court on 02.11.2017, the petitioner is continuing in service.

Heard.

The State Government has vide Notification No.24/21-2011-C-IV (3) dated 02.03.2015 issued by the Higher Education Department, Government of Haryana constituted the Educational Tribunal. The notification is reproduced hereunder:-

“In pursuance to the judgment dated 20.10.2002 of the Hon'ble Supreme Court of India in ***TMA Pai Foundation and others versus State of Karnataka, 2003 (2) SCT 385: 2002(8) SCC 481*** wherein the Hon'ble Court has observed that for the redressal of grievances of employees of aided/unaided educational institutions who are subjected to punishment or termination of services, a mechanism will have to be evolved by constituting appropriate tribunals. The right of filing appeals would lie before the District and Session Judges or Additional District and Session Judges till the tribunals are set up.

It is notified that the District and Session Judges in the State of Haryana have been authorized to heard the appeals of the employees or aided/unaided educational institutions against decision of management within their jurisdiction, by the Hon'ble Punjab and Haryana High Court, Chandigarh vide No.23414 Gaz.II/IX.C.II dated 10.08.2005. The tribunals already notified by

the Hon'ble High Court will also bear appeals of employees of aided/unaided colleges against the orders of management.”

The petitioner was appointed as a Teacher with respondent No.5 (School) in the year 1995. The proceedings had been initiated by the Management for dispensing with the services of the petitioner on 21.08.2017. In pursuance thereto, the Director, Higher Education (Respondent No.2) had also written to the District Education Officer, with a copy to the School/Management to issue show cause notice to the petitioner. The petitioner had been an employee of the School for 22 years before the dispute between her and the Management arose. The action of the Management and the functionaries of the State Government thereafter is an off-shoot of a dispute between an employee and the Management.

It has been held by the Coordinate Bench of this Court in the case of **Dr. Mukul Gupta versus Industrial Finance Corporation of India Limited and others, 2015(4) SCT 380** that all the disputes of employees pertaining to their punishment or termination of services with the Management of aided or un-aided educational institutions within the jurisdiction of the State of Haryana would be determined by the Educational Tribunal, Haryana in the first place.

It is true that this Court, while exercising writ jurisdiction, could entertain a petition wherein there is violation of principles of natural justice and an alternative remedy available to the petitioner would not be in the facts and circumstances be an efficacious one. However, I do not find any exceptional circumstances in the instant case which would warrant adjudication by this Court when the petitioner has not availed the alternative remedy of

approaching the Educational Tribunal for the redressal of her grievance.

Consequently, the petition is disposed of by relegating the petitioner to the remedy of approaching the Educational Tribunal, Haryana for redressal of her grievance in terms of the aforementioned notification.

The petition along with miscellaneous application(s), if any, stands transferred to the Educational Tribunal and the parties shall appear before the Educational Tribunal, Haryana, on 01.12.2022.

Interim order passed by this Court on 02.11.2017 will continue till 01.12.2022 and the petitioner would be at liberty to file an application before the Tribunal for interim directions.

(ANUPINDER SINGH GREWAL)
JUDGE

November 21, 2022
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No