

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

CR-5848-2022 (O&M)

Date of decision:12.12.2022

Shiromani Gurudwara Parbandak Committee, Amritsar and others

....Petitioners

Versus

Ram Krishan and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mrigank Sharma, Advocate for the petitioners

ANIL KSHETARPAL, J (Oral)

The petitioners herein are the defendants in a civil suit filed by the plaintiff to recover the arrears of revised salary. The petitioners' application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ,to reject the plaint at the threshold has been dismissed. They claim that the jurisdiction of the civil court is barred under Section 8 of the Punjab Affiliated Colleges (Security of Service) Act, 1974 (hereinafter referred to as 'the 1974 Act'). The trial court has found that the plaintiff is no longer in the service of the petitioners and he is not challenging his termination or dismissal. Thus, the court has held that prima facie the jurisdiction of the civil court is not barred.

Challenging the correctness of the aforesaid order, this revision petition has been filed. Learned counsel representing the petitioner submits that the expression "*employee*" as defined in Section 2(e) would cover a former employee. He submits that all disputes, between the management and the employee including a former

employee, are required to be decided by the Educational Tribunal constituted under the 1974 Act.

The word “*employee*” has been defined as under:-

“(e) “employee” means a person in the employment of an affiliated college, but does not include a work-charged employee.”

Section 8 of the Act reads as under:-

“8. No civil court shall have jurisdiction in respect of any matter in relation to which the State Government, the Director or a College Tribunal is empowered by or under this Act to exercise any power and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.”

It is evident that the definition of word employee does not necessarily include a former employee. Moreover, the jurisdiction of the civil court under Section 8 of the Act is not absolutely barred. The petitioners are required to prove that the dispute involved in this litigation falls within the scope of the jurisdiction of the Tribunal. The aforesaid issue is debatable. Hence, the court has rejected the application under Order VII Rule 11 of the Code of Civil Procedure, 1908.

Keeping in view the aforesaid facts, no ground to interfere is made out. Hence, dismissed. However, the petitioners shall have the liberty to request the court for framing a distinct issue on the question of jurisdiction, which shall be decided while deciding the main case. Needless to observe that the observations made by this Court while passing this order shall not be construed to the final expression of

opinion on the merits of the case.

All the pending miscellaneous applications, if any, are also disposed of.

12.12.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE