



CWP-17642-2024

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

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Date of Decision: 17.12.2024

Suraj School and others

...Petitioner(s)

Versus

District Judge-cum-Education Tribunal and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Ms. Vibhuti Naraina, Advocate for the petitioners

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the judgment passed by the Educational Tribunal, Gurugram, dated 08.12.2023, Annexure P-1.

2. The Tribunal allowed the appeal filed by the second respondent in the following terms:

46. In view of my observation on the above mentioned three points of determination, once it has been held that termination of service of the appellant by the respondent was not in conformity with the employment agreement or statutory rights, and also that the respondents are guilty of withholding a part of wages/salary to the appellant, I hold that the present appeal deserves to be allowed. Hence, the same is hereby allowed and it is hereby declared that the appellant is entitled to recover a sum of Rs.3,04,300/- from the



respondent employer alongwith simple interest @ 6% per annum from the date when the amount became due till the date of payment. The respondents are directed to clear the above mentioned dues within a period of 2 months failing which the appellant would be entitled to recover the same. Memo of costs be prepared accordingly. The original service record of the appellant, placed on record by the respondents, be returned to the respondents as per rules after retaining its photocopy. After due compliance the appeal be consigned to the record-room.

3. Learned counsel for the petitioners has contended that as per the undated 'official memorandum' appended to the petition, there was a stipulation that from 17.04.2016 onwards till re-opening of the School, the second respondent along with other teachers would be paid fifty per cent salary, barring those who were getting salary at the rate of ₹300 per class. In terms therewith, the second respondent was not entitled to payment of full salary as has been granted by the Tribunal vide the impugned judgment. *Secondly*, the Tribunal has directed payment of salary to the second respondent from April 2020 to November 2021, though his resignation was accepted and he was relieved from service on 26.11.2021. Therefore, the judgment needs to be set aside.

4. Heard.

5. It is not denied by the learned counsel that the said undated 'official memorandum' relied upon by her was not placed on record before the Tribunal. It's a new fact not pleaded earlier and, accordingly, the Tribunal's judgment cannot be challenged on the basis of a fact not pleaded and proved

before it. *Secondly*, so far as the direction to pay full salary to the second



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respondent from April 2020 to November 2021 is concerned, it cannot be read to mean that he would be entitled to salary for the entire month of November 2021. The salary in terms of these directions is payable to him only up to the period he actually worked in the School.

6. In view thereof, there is no ground to interfere with the impugned judgment.
7. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

17.12.2024
Payal

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