

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CWP-18106-2024
Date of Decision :01.08.2024

Apeejay College of Fine Arts

...Petitioner

Versus

State of Punjab and others

...Respondents

124

CWP-18109-2024

Apeejay College of Fine Arts

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.L. Tiku, Sr. Advocate with
Ms. Yashneet and Mr. Manoj Bajaj, Advocates
for the petitioner(s) in both the petitions.

Mr. Charanpreet Singh, AAG, Punjab.
(keeping in view advance copy served).

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petitions, grievance being raised by the

petitioner-college is that a direction has been given by the Educational Tribunal, S.A.S. Nagar, Punjab to pay the retiral benefits to the respondents-employees including gratuity, leave encashment and CPF and the same should be computed on the basis of the basic pay plus D.A. being drawn by the respondents-employees at the time of their retirement.

Learned Senior counsel appearing for the petitioners submits that the grievance of the petitioner-College is two fold, one that respondents-employees were working on an aided post, for which, 95% grant-in-aid was given by the State and hence, the petitioner-College should be reimbursed by the State authorities qua the payment to be made to the respondents-employees after their retirement.

Second grievance raised by the petitioner-College is that there is a possibility that any of the respondent-employee keeping in view the leave already availed, might not be entitled for the benefit of leave encashment or even gratuity and hence, without adjudicating the said issue, direction has been issued by the Educational Tribunal.

Notice of motion.

Mr. Charanpreet Singh, AAG, Punjab accepts notice on behalf of the respondent-State and submits that qua the issue of reimbursement of the retiral benefits, same is already pending consideration before this Court and only if liability to reimburse the College authorities is fastened upon the State, appropriate action will be taken in accordance with law and as per settled principle of law on the issue concerned but at this stage there is no liability with the State to reimburse the College-petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The arguments which have been raised by the learned Senior counsel for the petitioner(s) is only with regard to the liability of the State to reimburse the petitioner-College qua the amount to be paid to the respondent-employee and the entitlement of the respondents-employees is not in dispute. Once, the entitlement of the employee to get the benefits as allowed by the tribunal is not in dispute, the petitioner-College is required to make the payment to the employee concerned at the first instance and in case, in future, the petitioner-College becomes entitled to get reimbursed by the State qua the payments made to the respondent-employee, they can avail appropriate remedy for the same. Hence, the direction given by the Education Tribunal to the petitioner-College to pay the retiral benefits to the respondents-employees needs no interference by this Court with the observation that in case, after making the payment to the respondents-employees, the petitioner-College becomes entitled for reimbursement of the said amount from the State, they can claim the same by raising appropriate claim before the State authorities by availing appropriate remedy.

With regard to the argument of the learned Senior counsel for the petitioner(s) that amount to be paid as leave encashment or gratuity has not been quantified, it may be noticed that the same has been left to the petitioner-College. The entitlement of the employee concerned has been adjudicated by the Educational Tribunal and the exact amount for which, the respondent-employee will be entitled, will be computed and calculated

by the petitioner-College only. In case, petitioner-College comes to the conclusion that amount already paid to the employee concerned is sufficient, keeping in view the direction given by the Educational Tribunal, an appropriate speaking order be passed. But under the garb of passing an appropriate order, claim of the employee be not frustrated by passing an incorrect order ignoring the service record despite the entitlement of the employee concerned. It may be noticed that while passing appropriate speaking order, order passed by the Educational Tribunal should be kept in mind and due facts to support the reasons given in the speaking order be mentioned by the petitioner while computing the entitlement of the respondent-employee so as to implement the direction given by the Tribunal in the impugned order.

Keeping in view the above, no ground for interference by this Court is made out in the award passed by the Educational Tribunal, S.A.S. Nagar Punjab except the observations that in case, in future, the petitioner-College becomes entitled to get reimbursed the payments made to the respondent-employee from the State, they can get the same by raising such claim before the State authorities in accordance with law.

As the present petitions are being disposed of without notice to the employees concerned, the employees concerned will have the liberty to file an appropriate application in case they feel prejudice in any manner qua the order being passed.

Both the petitions stand disposed of in above terms.

Civil miscellaneous application pending if any is also disposed

CWP-18106-2024 &
CWP-18109-2024

2024:PHHC:104979
-5-

A photocopy of this order be placed on the file of connected case.

August 01, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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