



113 (2 Cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA-3038-2024 (O&M)

*Date of Decision: 8<sup>th</sup> September, 2025*

*DELHI PUBLIC SCHOOL, JHAJJAR, HARYANA* .....*Appellant(s)*

V/s.

*EDUCATIONAL TRIBUNAL FOR EDUCATIONAL INSTITUTE, JHAJJAR  
AND OTHERS* .....*Respondent(s)*

LPA-3041-2024 (O&M)

*DELHI PUBLIC SCHOOL, JHAJJAR, HARYANA* .....*Appellant(s)*

V/s.

*EDUCATIONAL TRIBUNAL FOR EDUCATIONAL INSTITUTE, JHAJJAR  
AND OTHERS* .....*Respondent(s)*

**CORAM:** **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**  
**HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present Ms. Sapna Seth, Advocate, for the appellant(s).

Mr. Hemant Kakkar, Advocate  
for respondent No.2 in both the appeals.

\*\*\*\*

**ASHWANI KUMAR MISHRA, J. (Oral)**

1. This order shall dispose of these two connected Appeals, as the issue involved in both these Appeals is common.

2. Both the appeals arise out of order dated 05.07.2024 passed by the learned Single Bench, whereby Writ Petition(s) filed by the appellant(s) have been dismissed, affirming the order of the Educational Tribunal for Educational Institute, Jhajjar, (hereinafter referred to as "the Tribunal").

3. The Tribunal has found the termination of concerned Teachers (respondents No.2 in both the Appeals) to be illegal and therefore, damages to the extent of ₹20,00,000/- has been awarded to them.

4. Tribunal's order was challenged before the learned Single Bench on two grounds. The first ground was that the previous Appeal, filed by the concerned Teachers, was withdrawn without liberty to file a fresh and the second ground was that the quantum of damages was excessive. Learned Single Bench has non-suited the appellant(s) on both the grounds. So far as withdrawal of earlier appeal is concerned, learned Single Bench has noticed that specific application was filed before the Tribunal to withdraw the Appeal so as to file fresh appeal. Merely because liberty was not granted to file fresh appeal, the said fact has been held by the learned Single Bench not to be a valid ground to non-suit the concerned Teachers as strict Rules of the Civil Procedure Code are not applicable and even otherwise withdrawal of appeal was with a clear intent to enable the Teachers concerned to file a fresh appeal.

5. For coming to such view, learned Single Bench has given elaborate reasons in Para 6 of the impugned judgment, which are reproduced hereinafter:-

*“6. It is an undisputed fact on record that the second respondent specifically pleaded in the applications) seeking withdrawal of earlier appeals) that they wanted to withdraw the same due to some technical error, only to file fresh appeals). Accordingly, the application(s) were accepted by the Tribunal and the appeals) were dismissed as withdrawn, which were filed again leading to passing of the impugned judgments. In these circumstances, objection to maintainability of appeals) filed by the second respondents) by invoking provisions of Order XXIII Rule 1 (4)(b) CPC, is liable to be rejected on the following two grounds.*

6.1 Firstly, the Tribunal has been constituted, vide Haryana Government Education Department notification dated 02.03.2015, for redressal of all service disputes of employees working in aided/unaided educational institutions. This has been done in terms of law laid down by the Supreme Court in *TMA Pai Foundation and others v. State of Karnataka and others*, 2002(8) SCC 481, the relevant paragraph whereof reads as under;

64. ... Normally, the aggrieved party would approach a court of law and seek redress. In the case of educational institutions, however, we are of the opinion that requiring a teacher or a member of the staff to go to a civil court for the purpose of seeking redress is not in the interest of general education. Disputes between the management and the staff of educational institutions must be decided speedily, and without the excessive incurring of costs. It would, therefore, be appropriate that an educational Tribunal be set up in each district in a State, to enable the aggrieved teacher to file an appeal, unless there already exists such an Educational Tribunal in a State to a State-the object being that the teacher should not suffer through the substantial costs that arise because of the location of the Tribunal; if the tribunals are limited in number, they can hold circuit/camp sittings in different districts to achieve this objective. Till a specialized tribunal is set up, the right of filing the appeal would lie before the District Judge or Additional District Judge as notified by the Government.

Pursuant to the directions, the Government has constituted Educational Tribunals all over the State vide the aforementioned notification, but the Rules of procedure have not been laid down. Since the Tribunal has been set up as a

*forum to speedily decide disputes between the management and staff of the educational institutions, as an alternative to the regular civil Court, the strict rules of procedure laid down in CPC for the Courts of civil judicature would not be applicable to the proceedings in appeal before it. Doing so would go against the very object of setting up the Tribunals in the light of TMA Pai Foundation case ibid. The Tribunal, accordingly, is to conduct its proceedings by following the Principles of Natural Justice, affording due opportunity to the parties to effectively contest their respective cases, and decide the appeals on the basis of pleadings and documents duly supported by affidavit(s) of the competent persons/authorities. The provisions of CPC will be applicable only in principle, and the Tribunal will not be strictly bound by the procedures prescribed in the Code.*

6.2. *Secondly, the order(s) earlier passed by the Tribunal dismissing the appeals) as withdrawn are not an adjudication on merits. The appeal(s) were withdrawn on account of technical defects, only to be filed afresh, and accepting the application(s), the same were dismissed as withdrawn. The underlying reason allowing withdrawal of appeals) was to permit filing fresh ones on the same cause of action; had it not been, the Tribunal would have specifically restrained the second respondent(s) from doing so, which was not done. Further, as the earlier appeal(s) preferred by the second respondent(s) were not decided on merits, it would be a travesty of justice to hold that they would not be entitled to file fresh ones seeking adjudication of their rights. Rigours of procedural law cannot be stretched that far, so as to rob a party of its right to seek adjudication of a dispute, as it will be contrary to object of laying down the procedure itself. The Courts have to be primarily guided by the cardinal principle of doing substantial justice in a lis. Accordingly, the appeal(s) were maintainable, and the Tribunal rightly held thus. This view is in line with the law laid down by the Supreme Court in*

*Kandapazha Nadar case (supra), wherein by referring to the earlier judgments on the issue, it was held as under:*

*18. In the case of Nathji and another v. Languria and another (AIR 1925 Allahabad 272), it has been held that where in the case of an application to withdraw a suit in terms of Order 23 Rule 1(2) C.P.C., the Court allows the suit to be withdrawn but refuses permission to bring a fresh suit, the court's order is erroneous. It was held that if the trial court saw no reason for allowing the withdrawal in terms of Order 23 Rule 1(2), the trial court should have refused the application seeking liberty to file a new suit and it should have proceeded with the suit on merits.*

*19. In view of the above judgments, the position in law is clear that when the court allows the suit to be withdrawn without liberty to file a fresh suit, without any adjudication, such order allowing withdrawal cannot constitute a decree and it cannot debar the petitioners herein from taking the defence in the second round of litigation as held in the impugned judgment. The above judgments indicate that if the plaintiff withdraws the suit, the order of the court allowing such withdrawal does not constitute a decree under Section 2(2) of Code. That in any event, it will not preclude the petitioners herein (defendants in second round) from raising the plea that the sale deed executed by Chelliah Nadar on 26.2.73 in favour of Thangaraj Nadar was not true and valid. Thus, the civil appeal needs to be allowed.”*

6. We do not find any perversity or illegality in the observations of the learned Single Bench. The object of constitution of the Tribunal was merely to provide a forum for expeditious disposal of disputes of teachers

and in the facts of the case, the teachers concerned could not have been non-suited for an apparent error on part of the Tribunal in the earlier round of litigation.

7. So far as the quantum of damage is concerned, learned Single Bench has dealt with the issue in para 7 of the impugned judgment, which reads as under:-

*7. The second submission of learned counsel for the petitioner is also liable to be rejected since the compensation awarded by the Tribunal in the facts and circumstances of the cases, is justifiable and in consonance with the law laid down. Its findings in that regard as recorded in the impugned judgment in the first petition, and on similar lines in the connected petitions, are as under:*

*22. There is a relationship of master and servant between the parties. As such it is a contract of employment and it is not capable of specific performance. Considering the master and servant relationship inter se between the parties, Hon'ble Apex Court in authority titled as Kailash Singh versus Managing Committee, Mayo College, Ajmer and others (2018) 18 SCC 216 has held that the relief of reinstatement in service cannot be granted for breach of contract and only compensation is payable. While relying upon the authority titled Kailash Singh (supra), Hon'ble Punjab and Haryana High Court in case titled as M/s G.D. Goenka School versus Preveen Singh Shekhawat and others, LPA No.389 and 390 of 2018 (O&M), decided on 14.12.2022 has held as under:-*

*"Thus applying the said principle and keeping in view the fact that there has been bad blood between the management and the respondents-*

*employees in as much as three of their children had also been forced to leave the school where they were getting free education on account of the employment of their parents. Thus, we are of the considered opinion that the ends of justice would be served if Mrs. Parveen Shekhawat is paid a total amount of Rs.20,00,000/- as compensation on account of the illegal action of the school management in terminating the services without any enquiry as she was drawing around Rs.13,000/- at the time of appointment and Rs.48,000/- at the time of termination. Keeping in view the fact that her husband Mr. Ajay Singh Shekhawat was getting a higher scale and his gross emoluments were Rs.25,000/- at the time of appointment and Rs.79,000/- at the time of termination, we are of the considered opinion that he would be entitled to Rs.30,00,000/- as compensation. The above said compensation of Rs.50,00,000/- would be subject to the adjustment of Rs.20,00,000/- which they had already received way back in the year 2018."*

*In the light of the authorities titled as Kailash Singh (supra) and M/s G.D. Goenka School (supra), the appellant is not entitled for the relief of reinstatement in service and she is only entitled for the relief of compensation. In authority titled as M/s G.D. Goenka School (supra), Hon'ble Punjab and Haryana High Court has given total compensation of Rs.20,00,000/- to Mrs. Parveen Singh Shekawat on account of illegal termination of her service by the school management, considering her salary of Rs.48,000/- per month at the time of termination of services. Appellant Ms. Varsha was also drawing the monthly salary to the*

*tune of Rs.41,139/- at the time of termination of her service by the respondents. Considering the monthly salary of Rs.41,139/- per month at the time of termination of her service and by applying the ratio of the authority titled as M/s G.D. Goenka School (supra), appellant Ms. Varsha is entitled to the compensation of Rs.18,00,000/- from the respondents for illegal termination of her service.*

*There is no error of law or material irregularity in the reasoning given by the Tribunal, as the compensation has been assessed keeping in view the monthly salary being drawn by the second respondents) at the time of termination from service as well as the number of years of service rendered.”*

8. Admittedly, the concerned teachers were working in the appellant(s)-School for the last 9-12 years and have been ousted from employment without giving justifiable reasons. The quantum of damages awarded by the Tribunal, in such circumstances, cannot said to be exorbitant.

9. There is another reason why we are not inclined to interfere in these appeals that while filing the present LPAs, the appellant(s) has not annexed copies of the appreciations letters and awards, conferred upon the concerned teachers by the appellant(s)-School itself, which they had appended with their written statement filed before the learned Single Bench.

10. An objection was taken on the last date of hearing that the counsel, who has filed the LPAs, has incorrectly certified that all records and documents filed before the learned Single Bench have been appended

with the LPA. This contention was disputed on part of the appellants and therefore, we proceeded to pass following order on 26.08.2025:-

*“Mr. Hemant Kakkar, learned Counsel enters appearance on behalf of respondent No.2. He states at bar that complete record of Writ Court has not been annexed along with appeal(s) filed by the appellant(s) and the Certificate submitted by the counsel for the appellant(s) in that regard is false.*

*Adjourned to 08.09.2025 in order to enable the learned counsel for respondent No.2 to place complete documents on record by way of an affidavit.*

*It is made clear that if it is found that the Certificate annexed by the counsel for the appellant(s) is incorrect, we shall proceed to pass further orders as would be required in the matter.*

*To be shown in the urgent list.*

*Photocopy of this order be placed on the file(s) of connected case(s).”*

11. A copy of the written statement that has been filed by the concerned teachers (respondents No.2) along with an application which would show that there were various appreciation letters and awards conferred upon them by the appellant which have not been annexed with the LPA.

12. We deprecate the practice followed by the appellant(s) in not annexing the complete documents filed before the learned Single Bench while filing the present LPA. The certification of the counsel that all documents before the learned Single Judge have appended is also shown to be wrong.

13. We are not proceeding any further against the appellants for concealment of documents before us, but are of the view that their conduct clearly disentitles any indulgence in the matter.

14. In view of the aforesaid, both the appeals fail and are accordingly ***dismissed***.

15. All pending applications in this case are disposed of accordingly.

**[ASHWANI KUMAR MISHRA]**  
**JUDGE**

**[ROHIT KAPOOR]**  
**JUDGE**

**September 8, 2025**

*Ess Kay*

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>