

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

C.W.P No. 18828 of 2010 (O&M)

Date of decision : May 21, 2015

Manoj Kumar,

..... Petitioner

v.

Haryana Wakf Board and others,

..... Respondents

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**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Mr. Vikas Bahl, Sr. Advocate  
with Mr. Nitish Garg, Advocate  
for the petitioner.

Mr. Amit Jhanji, Advocate  
for the respondents.

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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**Ajay Tewari, J (Oral)**

The petitioner was appointed as a Legal Clerk in the respondent- Haryana Wakf Board. Admittedly this post is a Class-III post. As per the relevant rule, the Appointing Authority for Class-III employees was the Secretary of the Board and as a matter of fact, the appointment order of the petitioner was issued by the Secretary of the Board. The grievance is that the punishment order has been passed by the Administrator.

Counsel for the petitioner has argued that at the time when the punishment order was passed, the Board had been superseded. As per him, the punishment order has been passed by the final authority and because of this statutory right of appeal/s has been taken away. He has relied upon U.P

Power Corporation Ltd and another v. Virendra Lal (Dead) through L.Rs,

Civil Appeal No.8949 of 2013, decided on 3.10.2013, wherein their

Lordships of the Hon'ble Supreme Court held as follows :-

“21. From the aforesaid enunciation of law it is graphically clear that a higher authority may pass an order imposing a punishment and the same would withstand scrutiny if the right of appeal is not taken away. That apart, if the appellate authority passes an order as the primary authority and there is provision for further appeal or revision or review it cannot be said that the said order suffers from any illegality. In the case at hand, there is no denial of the fact that the UPSEB has passed the order for deduction of 10% pension from the delinquent employee. Under the Regulations which we have reproduced hereinbefore there is a stipulation that an appeal or representation, as the case may be, from the order of the Chairman is the competent authority to pass the order of punishment and, therefore, by virtue of the order passed by the UPSEB remedy of appeal was denied to the delinquent employee. Under these circumstances, the view expressed by the High Court has to be regarded as flawless and, accordingly, we concur with the same.”

As per the learned counsel, in the circumstances, the punishment order has to be set aside, and a direction be issued to respondent No.2 to re-decide the question of punishment independently as per the material on record without being influenced by the impugned order.

Counsel for the respondents has not been able to cite any contrary judgment.

In the circumstances, this writ petition is allowed and the impugned order dated 29.09.2010 (Annexure P-22) is set aside. Liberty is, however, granted to respondent No.2 to pass a fresh order in accordance with law as per the material on record.

**( AJAY TEWARI )**  
**JUDGE**

**May 21, 2015**  
**`kk'**

