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

CWP No. 19436 of 2012 (O&M)

Date of decision: 21.01.2016

Satinder Dhawan

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Veneet Sharma, Advocate for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

The petitioner who was serving the Haryana State Lotteries as an Assistant, was dismissed from service through order dated 31.10.2002. Recovery of Rs.11,78,398.50 was also ordered to be made from him.

Laying a challenge to the aforesaid punishments inflicted upon the petitioner, he had earlier approached this Court through **CWP No.9833 of 2004** titled **Satinder Dhawan vs. State of Haryana and another.** One of the grounds raised in that petition was that for the same acts of omission and commission for which the petitioner had been inflicted the above punishment, he had also been proceeded against under the criminal law which had resulted in his acquittal. After considering the entire matter, the

aforesaid writ petition filed by the petitioner was disposed of on

28.10.2010 by issuing the following directions:-

“Be that as it may, considering the very fair stands taken by counsel for the parties, the present writ petition is disposed of with a direction that the Appellate Authority shall decide the appeal afresh, after taking into consideration the judgment of acquittal, whereby the petitioner has been acquitted. The Appellate Authority shall examine the report of the regular enquiry, other various documents and the judgment of acquittal recorded by the criminal court and thereafter shall pass a fresh order within three months from the date of receipt of a certified copy of this order. The petitioner is also granted the liberty to supplement his grounds of appeal.”

In purported compliance of the aforesaid directions, the appeal of the petitioner through the impugned order dated 15.09.2011 (Annexure P-16) had been decided by the Appellate Court.

A perusal of the order of this Court dated 28.10.2010, as reproduced above, shows that this Court had clearly directed the Appellate Authority to decide the petitioner's appeal afresh after taking into consideration the petitioner's acquittal by the Criminal Court. The Appellate Authority was also directed to examine the report of Enquiry Officer and other relevant documents as referred to in the appeal of the petitioner before deciding his appeal.

The order dated 15.09.2011 (Annexure P-16) passed by the Appellate Authority is a mere reproduction of facts. Also referred therein are some judgments of the Apex Court.

However, the effect of the petitioner's acquittal by the criminal Court has not been considered at all. In fact, the order is virtually bereft of any reason.

Learned counsel for the petitioner bring to my notice the dismissal of the State's appeal by this Court against the order of his acquittal through order dated 09.10.2014 (Annexure P-19).

In view of the aforesaid position, the impugned order dated 15.09.2011 (Annexure P-16) passed by the Appellate Authority cannot be sustained and resultantly, the same is ordered to be quashed. However, the respondent-Appellate Authority is again given a chance to consider the appeal of the petitioner in terms of the order of this Court dated 28.10.2010 passed in **CWP No.9833 of 2004 titled Satinder Dhawan vs. State of Haryana and another.**

It is further directed that since the appeal of the State against the order of acquittal of the petitioner by the trial Court has been dismissed by this Court that order would also be taken into consideration by the Appellate Authority. Each and every ground taken by the petitioner in his appeal is directed to be dealt with separately.

The needful be done within two months from the date of receipt of a certified copy of this order.

The writ petition stands allowed in the above terms.

(Deepak Sibal)
Judge

21.01.2016

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