

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

CWP No. 5255 of 2017 (O&M)
Date of decision : March 15, 2017

Surjit Singh,

..... Petitioner

v.

Chandigarh Housing Board and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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

Ajay Tewari, J (Oral)

By way of this writ petition, the petitioner has challenged the order of removal from service passed against him by the Chairman of the Chandigarh Housing Board.

Primary contention is that the appointing authority of the petitioner was the Executive Engineer and consequently an order of dismissal could have been passed by that authority. As per the regulations, one appeal and one revision is provided and actually the Chairman would be the revisional authority and on that score, it is argued that the impugned order is illegal.

In my opinion, the mere fact that an authority higher than the appointing authority has passed an order of punishment cannot be taken to be ex-facie illegal, as noticed by the Supreme Court in Balbir Chand v. Food Corporation of India, AIR 1997 SC 2229. However, it cannot be

gainsaid that any order which leaves a person without any remedy of appeal which is otherwise provided under the rules would have to be struck down. In the present case, an appeal can well lie to the next higher authority i.e the Board of Directors. There is a chance that the Board of Directors may even allow the appeal in which case the question raised in the present case would be rendered academic.

Faced with this situation, counsel for the petitioner prays for permission to withdraw this writ petition with liberty to file an appeal. Allowed as prayed for. Dismissed as withdrawn.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

March 15, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No