

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-35549-2019

Date of Decision:-09.12.2019.

Surinder Kumar Makkar

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Sanjeev Sharma, Senior Advocate with
Mr. Shekhar Verma, Advocate and
Mr. Sandeep Singh, Advocate for the petitioner.

Mr. Shreenath A. Khemka, Advocate for the respondents.

SANJAY KUMAR, J. (Oral)

Challenge in this writ petition is to the office order dated 18.11.2019 (Annexure P-36), whereby the petitioner, an Executive Engineer in the service of the Uttar Haryana Bijli Vitran Nigam Limited, was visited with the major penalty of stoppage of two of his increments with future effect, along with downgrading of his Annual Confidential Report for the relevant year (2015-16).

Perusal of the said order reflects that the punishment imposed upon the petitioner was kept in abeyance for a period of 15 days in compliance with the directions of this Court, *vide* order dated 18.09.2019 passed in **CWP-26275-2019**, to enable him to avail the remedy of filing an appeal before the Board of Directors, as per the UHBVN (P&A) Regulations, 2018.

Mr. Sanjeev Sharma, learned senior counsel appearing for the petitioner, would contend that as the aforestated punishment order was issued with the approval of the Chairman-cum-Managing Director of the organization, an appeal to the Board of Directors of the said organization, which would be headed by the very same Chairman-cum-Managing Director, would be an exercise in

CWP-35549-2019

However, as the earlier order passed by this Court in *CWP-26275-2019* left the issue open as to what would constitute the proper remedy for the petitioner to avail after passing of the final order, and as the statutory rules admittedly enable the filing of an appeal before the Board of Directors even against a punishment order passed by the Chairman-cum-Managing Director of the organization, it cannot be construed that such appeal would be an exercise in futility. Needless to state, when the order under appeal before the Board is one passed by the Chairman-cum-Managing Director, he would have to recuse himself from the appellate proceedings and should not influence the Directors who sit in appeal over his decision.

In the light of the efficacious alternative remedy provided to the petitioner under the statutory scheme, this Court is not inclined to entertain this writ petition at this stage and adjudicate upon the correctness of the punishment order.

The writ petition is accordingly disposed of permitting the petitioner to invoke the appellate remedy provided to him within one week from today. The Board of Directors, sans the Chairman-cum-Managing Director of the organization, shall thereupon take up the said appeal and consider the same on its own merits and in accordance with law. The impugned punishment order dated 18.11.2019 (Annexure P-36) shall remain in abeyance till the disposal of the stay application, if any, filed in such appeal.

No order as to costs.

(SANJAY KUMAR)
JUDGE

December 09, 2019.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.