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

CWP-12181-2020

Date of decision-19.08.2020

Sundeep Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sandeep Kumar, Advocate for the petitioner.

MANOJ BAJAJ, J.

By means of this writ petition under Articles 226/227 Constitution of India, the petitioner seeks writ of certiorari for quashing of the charge sheet dated 08.03.2018 (Annexure P-4), Inquiry report dated 09.07.2019 (Annexure P-8) as well as punishment order dated 23.07.2020 (Annexure P-25), whereby the Chairman-cum-Managing Director, Dakshin Haryana Bijli Vitran Nigam Ltd.-respondent No.2 while holding him guilty of the charges levelled under Regulation 7 of the DHBVN Employees (Punishment and Appeal) Regulations inflicted a punishment of stoppage of two annual increment with future effect.

Learned counsel for the petitioner contends that previously the petitioner had filed CWP-1048-2020 with a prayer for quashing the charge sheet dated 08.03.2018, inquiry report dated 09.07.2019 and show-cause notice dated 04.12.2019, however, during the pendency of the said petition, the impugned punishment order was passed on 23.07.2020. He submits that

the said petition was withdrawn by him on 06.08.2020 with liberty to challenge the impugned punishment order. Learned counsel further fairly states that the order of punishment is appealable but the authority who passed the punishment order is also the Appellate authority and therefore, the said remedy may be a futile exercise. Therefore, the present writ petition has been filed.

During the course of hearing, learned counsel has relied upon the decision dated 09.12.2019 passed in CWP-35549-2019 to contend that for the time being, the petitioner would be satisfied if the petitioner is relegated to the remedy of appeal in the same terms as was allowed to the petitioner in CWP-35549-2019, who was identically placed. He submits that the petitioner in the said writ petition was holding the same post of Executive Engineer with the same department and this Court had made the following observation:-

*“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.”*

The prayer made by the petitioner appears to be reasonable.

Notice of motion.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of the respondent Nos.1 and 4 and does not

dispute the factual aspect.

Considering the above background, the writ petition is disposed off in terms of the decision dated 09.12.2019 passed in CWP-35549-2019 and in case the petitioner prefers an appeal, the same shall be decided by the Board of Directors without involving Chairman-cum-Managing Director (respondent No.2) in the process of adjudication. The impugned punishment order dated 23.07.2020 (Annexure P-25) be kept in abeyance till the disposal of the stay application, if any.

Disposed off.

(MANOJ BAJAJ)
JUDGE

19.08.2020

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No