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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11671/2015**

RAJBIR SINGH

..... Petitioner

Through: Mr. Malaya Kumar Chand, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. Arun Birbal and Mr. Sanjay Singh,
Adv. for DDA

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

21.01.2016

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We have heard the counsel for the petitioner but express our inability to interfere with the impugned order passed by the Central Administrative Tribunal dated 14.08.2015 dismissing the Original Application No. 3735/2013.

The petitioner, a Patwari, was charged-sheeted for having given an incorrect status report relating to the issue of 'No Objection Certificate' in respect of Plot No. 44, Khasra No. 288/249/2, Village – Kalu Sarai. The said land was a DDA land. A display or signage board had been erected on the land to state that the plot belonged to and was owned by the DDA.

The contention of the petitioner is that he had not given a conclusive report, as per the findings of the Disciplinary Authority.

The inquiry officer on the charge framed against the petitioner had held:

**"4. Charges framed against Rajbir Singh, Patwari, LM
Coordn. Branch**

Shri Rajbir Singh Patwari, (U/S) has reported on 8.7.2008 that Khasra no.288/249 of Kalu Sarai is measuring 11 Bigha 11 Biswa. The Khasra no.288/249/1 (2 Bigha 12

Biswa) was acquired by DDA vide award No.1899 and taken a possession on dated 29.07.1966. As regards Khasra no.288/249/2, he only advised that the applicant be asked to approach SDM/Hauz Khas whereas, being a custodian of revenue record, it was supposed that he will give a complete status report on the ownership of land in question to his superior concerned which he did not give. As a result, Kanoongo/Tehsildar also reported that the plot no. 44 is situated in Khasra no.288/249/2 and it is not a DDA land. He had even shown the plot to Kanoongo during site inspection.

On the contrary, after constituting a committee on the issue, the Patwari/Kanoongo/NL Branch vide their report dated 25.09.2008 stated that plot no. 44 is not situated on Khasra no. 288/249/2. The plot no.44 was situated on the DDA acquired land at Khasra no. 234 (1 Bigha 19 Biswa). Khasra no. 244 (1 Bigha 1 Biswa). Khasra No. 245 (1 Bigha 3 Biswa) and 246 and Khasra no. 247 (2 Bigha and 1 Biswa). This shows that Shri Rajbir Singh, could not identify DDA land which supposed to be in DDA possession. He is an important official and responsible for the protection and safeguard of the land but he could not fulfill his duty and responsibility as he could not give correct status report.

Shri Rajbir Singh, Patwari (U/S) in his version dated nil (Diary No. 1645/DVO-I dated 23.3.2009) has not given a satisfactory explanation.

Shri Rajbir Singh, Patwari (U/S) has not given a correct status report on the land in question. Moreover, after receipt of the request of the applicant to remove their board from DDA's land, he should have been extra cautious in dealing in the matter. But he gave report that land for which NOC was demanded is not a DDA land whereas it was DDA land.

By his aforesaid act, Shri Rajbir Singh, Patwari (U/S) exhibited lack of absolute devotion to duty and failed to maintain absolute integrity and acted in manner unbecoming of an employee of the Authority and thereby, contravened sub-regulation 4(i), (ii) & (iii) of the DDA Conduct, Disciplinary and Appeal Regulations 1999."

The Disciplinary Authority, Commissioner (P), DDA had issued a note of disagreement stating that the petitioner had not chosen to clearly mention the site status and that had created a doubt about his working. It was incumbent on part of the petitioner to bring out clearly whether the plot in question was DDA land or private land. Preponderance of probability would suggest that petitioner was responsible for not giving the factual position and thereby had caused confusion.

After considering the petitioner's reply, the Disciplinary Authority had passed an order dated 14.8.2012 imposing penalty of reduction of pay by one stage in the scale of pay for a period of one year without cumulative effect. The Appellate Authority vide order dated 4.1.2013 dismissed the appeal. Revision petition was disposed by order dated 19.7.2013, observing that the petitioner had failed to disprove the finding.

The Revisionary Authority had examined the contention that it was the job of Delhi government officials to decide any dispute regarding demarcation of land, and has observed that the Disciplinary Authority had imposed a minor penalty instead of a major one. We would only observe, that a *Patwari* in DDA has a definite role to perform. The ambiguous report prepared by the petitioner was the subject matter of the charge sheet. There was a reason and cause for preparation of the report.

The Enquiry Report records that the charge against the petitioner was partly proved, for the petitioner had not given a correct status report with regard to the plot and had as regards Khasra No.288/249/2 advised the applicant to approach the SDM. In fact and to the contrary, plot No.44 was not situated on 288/249/2 and was situated on the acquired land. As per the findings recorded by the Enquiry Officer, the petitioner had even shown the said plot to the Kanoongo during site inspection.

The Disciplinary Authority after issuing dissent note has clearly opined that the charge against the petitioner was fully proved and thereupon,

penalty of reduction of pay by one scale with cumulative effect was imposed upon the petitioner. The Disciplinary Authority had also considered the contention that the DDA's land had remained with them and no loss was suffered. The said findings of the Disciplinary Authority and the penalty have been upheld by the Appellate Authority and Revisionary Authority. The order under challenge passed by the Tribunal affirms the concurrent finding.

We do not see any reason to take a different view.

The writ petition is dismissed.

SANJIV KHANNA, J

JANUARY 21, 2016
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NAJMI WAZIRI, J