

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

Date of Order: April 20, 2018

+ W.P.(C) 3940/2018, CM Nos. 15583-84/2018

MAHABIR SINGH

..... Petitioner

Through: Mr Achal Gupta and Ms Annie
Rais, Advs

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD & ORS.

..... Respondents

Through: Mr Parvinder Chauhan and
Mr Nitin Jain, Advs for R-1 to 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. The petitioner was Lower Divisional Clerk with respondent-Board and he was departmentally tried in September, 2013 on the charge of malafidely putting up the proposal to allot Flat No. C-9-Z and C-15-Z, Jahangir Puri, Delhi in favour of Manjeet Singh and Sarabjeet Singh, although these flats were required to be sealed as per order of 11.07.2008 of Additional Commissioner. The case put up against the petitioner was that Manjeet Singh

and Sarabjit Singh were not riot victims but were subsequent trespasser and allotment proposed to be made to them was in violation of the resolutions passed by the MCD. The charge against the petitioner was that Flat No. C-15-Z was already sealed on 29.01.2009 and without getting de-sealing order from the competent authority, the allotment of the aforesaid flat was malafidely proposed and the petitioner had not proposed the survey of the site conducted and had not informed the concerned SDM to reconsider eligibility letter of 11.07.2008. The I.O found the petitioner guilty of the aforesaid charges and the disciplinary authority while accepting the inquiry report had imposed penalty of *“Reduction to a lower stage in the time-scale of pay by two stage for a period of one year, with further directions that Sh. Mahabir Singh, UDC will not earn increments of pay during the period of such reduction and on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay” with immediate effect.*

2. The petitioner had filed an appeal (annexure-12) against the penalty order wherein the stand taken was that the flats in question could not be sealed as provisional

allotment letters were already issued to Manjeet Singh and Sarabjit Singh regarding the conducting of survey, the stand taken by the petitioner in appeal is that the survey is conducted only if it is ordered by superior authorities and since there were no direction to petitioner by his superiors to get the survey of the site, so it was not done. Learned counsel for the petitioner submits that a witness from the respondent had also endorsed the aforesaid stand taken by the petitioner in appeal but the impugned order of 11.09.2017 vide which the petitioner's appeal has been dismissed does not take note of the aforesaid stand taken by the petitioner in appeal.

3. Upon hearing and on perusal of the penalty order and the appellate order, I find that the stand taken by the petitioner in the appeal (annexure -12) has not been effectively considered in the impugned order. It is required to be effectively considered and a speaking order needs to be passed on petitioner's appeal because the order of disciplinary authority is also a cryptic one. So such a course is required to be effected so that petitioner can effectively assail the appeal order while invoking the writ jurisdiction. Let the petitioner's appeal be reconsidered

within a period of six weeks and a speaking order be passed therein and petitioner be intimated about its fate within two weeks so that petitioner may avail of the remedy as available in law, if need be.

4. With the aforesaid directions, this writ petition and applications are disposed of.

(SUNIL GAUR)
JUDGE

APRIL 20, 2018
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