

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13201 of 2017

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Rajan Kumar Gupta, aged about 58 years, Son of Damodar Prasad Gupta R/o
Belwarganj, P.S. Alamganj, District - Patna - 800007.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Special Secretary, Department of Registration, Excise and Prohibition, Govt. of Bihar, Patna.
4. The Assistant Inspector General of Registration (Headquarter), Govt. of Bihar, Patna.
5. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Naresh Dikshit, Advocate Mr. Lalan Kumar, Advocate
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s	:	Mrs. Prachi Pallvi, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 20 -03-2018

The present writ petition has been filed for setting aside the notification dated 31.08.2017 by which the petitioner has been awarded the punishment of compulsory retirement.

2. The short facts of the case are that the petitioner was appointed as Sub Registrar on 07.07.1989 and while he was working as Additional District Registrar, Siwan, he was



served with a charge-sheet dated 01.04.2015 issued by the Respondent No. 3 whereby and whereunder, it had been alleged that while he was working as Additional District Registrar, Rohtas, the Principal Accountant General had reported that in the year 2013-14, on account of wrong classification of the land under Chenari Anchal, a loss of Rs. 13.13 lakhs had been caused to the exchequer and secondly, the petitioner had failed to perform his duty causing loss of revenue. The petitioner had submitted his show cause reply denying the charges whereafter a departmental proceeding was initiated against the petitioner vide Resolution dated 28.05.2015. The petitioner had then participated in the departmental inquiry and the Inquiry Officer submitted his inquiry report vide Memo dated 27.07.2015, finding the charges levelled against the petitioner to have been proved. The Disciplinary Authority had then issued a second show notice dated 12.08.2015 to the petitioner herein, which was replied to by the petitioner herein and thereafter, the impugned order of punishment dated 31.08.2017 was passed by the Disciplinary Authority, inflicting the punishment of compulsory retirement upon the petitioner herein.



3. The learned counsel for the petitioner has assailed the impugned order dated 31.08.2017 only on the ground that the punishment of compulsory retirement is not commensurate to the charges levelled against him and the same is shockingly disproportionate. In this context, the learned counsel for the petitioner has relied on a judgment of this Court dated 09.05.2016 passed in C.W.J.C. No. 4509 of 2016 to contend that in similar situation, the punishment of compulsory retirement was set aside and the matter was remitted to the Disciplinary Authority for fresh consideration on the issue of quantum of punishment.

4. Per contra, the learned counsel for the respondents has submitted that pursuant to grave charges having been found to have been proved during the course of the inquiry, a sympathetic view has been taken and the petitioner has only been awarded with the punishment of compulsory retirement, though, the present case was a fit case for awarding a punishment of dismissal from service.

5. I have heard the learned counsel for the parties and gone through the records and I find that there is no error in the decision making process and on that score, there is no scope



for interference since neither the proceedings have been held in violation of the principles of nature justice nor there is any violation of statutory regulations prescribing the mode and manner of such inquiry nor the decision of the authority is vitiated by considerations extraneous to the evidence on the merits of the case, thus, the learned counsel for the petitioner has rightly confined his argument to the quantum of punishment.

6. In such view of the matter, I find that the petitioner was afforded full opportunity and regular departmental proceeding was initiated against him as well as no irregularity or illegality has been committed during the course of the departmental inquiry, hence, the order dated 31.08.2017 does not require any interference on merits and the same is accordingly upheld.

7. Now coming to the aspect of award of punishment of compulsory retirement to the petitioner by the impugned order dated 31.08.2017, I find that there is serious allegation of causing huge revenue loss to the Government, as such, I do not find the punishment of compulsory retirement, inflicted upon the petitioner herein to be disproportionate to the charges levelled and it appears that a lenient view has been



taken against the petitioner, considering the fact that he is going to superannuate soon. In fact, the commission, in its meeting held on 24.01.2017 has also observed that in light of the charges levelled against the petitioner herein, the proposed punishment is not disproportionate and has also considered the entire matter in the light of gravity of the proved charges.

8. It is a trite law, as held by the Hon'ble Supreme Court in a case reported in **1995(6) SCC 749 (B.C. Chaturvedi Vs. Union of India)** that in case, the punishment imposed by the Disciplinary Authority, shocks the conscience of the High Court, it would appropriately mould the relief, either it might direct the Disciplinary Authority to re-consider the penalty imposed, or it may itself, in order to shorten the litigation, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof. The said law laid down by the Hon'ble Apex Court still holds good as on date.

9. In view of the fact that the punishment of compulsory retirement awarded to the petitioner herein is not shockingly disproportionate to the charges levelled, I do not deem it fit and proper to interfere with the impugned order of punishment dated 31.08.2017.



10. The writ petition is, accordingly, dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
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