

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7060 of 2014

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Binod Prasad Karan Son of Late Rajendra Prasad Karan Resident of Mohalla -
Shastri Nagar, P.S. - Rampur, District – Gaya **Petitioner**

Versus

1. The State of Bihar
2. The Member, Board of Revenue
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Gaya
5. The Magistrate In-Charge, District - Revenue Section - Gaya

.... **Respondents**

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Appearance :

For the Petitioner : Mr. Mahasweta Chatterjee, Advocate
For the State : Mr. Durgesh Nandan, AAG 14 &
Mr. Jitendra Kumar, AC to AAG 14.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 23-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner has submitted that
along with him three other persons, namely, Faiyaz Ahmad, Babu
Lal Ram and Rabindra Kumar had been proceeded against in
respect of allegations arising out of issuance of wrong certified
copies of Laggit of the raiyat of Compensation case arising out of
the same transaction.

3. She has submitted that in respect of said three persons
the Appellate Authority has reduced the punishment of dismissal to
that of compulsory retirement. She has alleged discrimination in the
matter by awarding him punishment of dismissal, though the said
three persons whose punishment has been reduced by the Appellate



Authority were also proceeded against in respect of the allegation arising out of the same transaction. Learned counsel has submitted that the response of the different officials have to be looked into and that would be determining factor in the matter of punishment. The petitioner submits that the mitigating factors have not been considered and therefore the petitioner has been inflicted severe punishment of dismissal which has been sustained by the Appellate Authority, though in the case of other three persons the same has been reduced to that of compulsory retirement. She points out the mitigating facts that the certified copies which the petitioner had issued were in fact the same what had been issued much prior to the petitioner by earlier Authority in the year 1975 to 1978. Other than that she has placed before the Appellate Authority fact that records have been produced in the judicial proceeding and it is not a case that there is no record. These mitigating facts have not been considered by the Appellate Authority and as such severe punishment of dismissal has been sustained by the Appellate Authority, even though in case of three others, the same has been reduced to compulsory retirement.

4. This Court is conscious of its limitation in interfering with quantum of punishment. The mitigating facts however have to be considered by the authorities. This Court is of the view that the interest of justice would be served if the petitioner makes a



representation so as to persuade the Appellate Authority to re-consider the punishment of dismissal awarded to him by the Disciplinary Authority, having regard to the facts noticed above in respect of three persons, wherein the punishment awarded to them has been reduced to compulsory retirement. Learned counsel for the petitioner submits that the consideration may be with reference to the mitigating facts which have been submitted and taken note of.

5. In view of the prayer made by learned counsel for the petitioner, the writ petition is disposed of with liberty to the petitioner to raise the mitigating facts along with copies of the order filed by the petitioner in the instant proceedings of said three persons, within a period of four weeks from today. In case, such application is filed, the Appellate Authority may consider the quantum of punishment awarded to the petitioner by a reasoned and speaking order within a period of three months thereafter.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.8.2018
Transmission Date	NA

