

Brindaban R  
Enclave, Flat  
District - Patna

1. The State
2. The Princ
3. The Joint
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Bihar, Pat
5. The Secre

**Appearance**

Versus

- Appearance :**

**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH**

## ORAL JUDGMENT

**Date: 16-03-2016**

Heard learned counsel for the petitioner as well as

2. The petitioner is an Assistant Engineer in Road

3. The charge against the petitioner was that he gave

officer on consideration of materials on record exonerated the petitioner of guilt vide enquiry report ,dated 12.05.2004 (Annexure-4). The disciplinary authority did not accept the report of the enquiry officer and after providing a show-cause, awarded punishment of reduction in the lowest pay scale.

4. The petitioner's case is that he filed a review petition for reviewing the order of punishment.

5. A counter affidavit has been filed on behalf of the respondents stating that no such review petition has been filed.

6. I need not go into the said aspect of the matter, as the case can be disposed of on a limited issue that the second show-cause notice was not in accordance with law laid down by the Hon'ble Apex Court in case of Punjab National Bank & Ors. Vs. Kunj Behari Misra, reported in (1998) 7 SCC 84 and in the case of Lav Nigam Vs. Chairman & MD, ITI Ltd, and another, reported in (2006) 9 SCC 440.

7. It is well settled by the ratio laid down in the aforesaid case that if a disciplinary authority disagrees with the findings recorded by the enquiry officer, he should give his tentative reasons for such disagreement.

8. I find virtually no reason in the second show-cause notice, dated 22.12.2003, for differing with the view of the enquiry officer. The only note of discordant is that the reasons given by the

enquiry officer is not acceptable.

9. It is true that there need not be an exhaustive or detailed reasons, but there has to be some reason for differing with the view of enquiry officer and merely saying that the reasons given by the enquiry officer is not satisfactory, would not satisfy the requirement of law.

10. In the result, the second show-cause notice as well as the impugned order of punishment are set aside and the matter is remitted to the respondents with liberty to proceed afresh from the stage of giving second show-cause notice and the same must be conclude within a period of four months.

11. Before parting with the order, this Court would observe that in case, the review petition annexed to this petition is manufactured, the authority can initiate enquiry.

12. This writ application is allowed to the extent mentioned above.

**(Samarendra Pratap Singh, J.)**

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