

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13205 of 2011

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Amarkant Jha, S/O Late Laxmi Kant Jha, R/O Vill.-Mangrauni, P.S.- Rajnagar,
Distt.- Madhubani, At Present Posted As O/C Daraunda Police Station, Distt.-
Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary Department Of Home (Police), Bihar, Patna.
2. The Secretary, Department of Home (Police), Govt. Of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur.
5. The Deputy Inspector General of Police, Tirhut Region, Muzaffarpur.
6. The Superintendent Of Police, District- Sitamarhi, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
Mr. Shivjee Singh, Advocate
DR. Kamal Deo Sharma, Advocate

For the Respondent/s : Mr. Arvind Kumar, AC to GA-9

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 19-08-2017

The petitioner was working in the Police Department as a Sub-Inspector of Police. Charge-sheet was issued to him mentioning various acts of omission and commission which amounts to misconduct. A detailed departmental enquiry was conducted and vide report dated 15.11.2007, the enquiry officer submitted his report as is evident from Annexure-3. In the report submitted, the enquiry officer



found that the charges are not proved and exonerated the petitioner of all the charges levelled against him. However, without notice to the petitioner, without hearing him and without following the principles of law laid down by the Hon'ble Supreme Court in the case of **Punjab National Bank & Ors Versus Kunj Behari Misra**, [(1998) 7 SCC 84], followed consistently by the Hon'ble Supreme Court in various cases and finally crystallized in the case of **S. P. Malhotra Vs. Punjab National Bank & Ors.** [(2013) 7 SCC 251], the disciplinary authority by the impugned order, Annexure-4 dated 31.3.2008 imposed the punishment stopping one increment for a period of six months which is equivalent to one black mark, apart from confirmation of period of suspension. Challenging the aforesaid punishment, this writ petition has been filed.

The facts, as narrated above, are admitted position. The appellate authority and the reviewing authority also dismissed the appeal and review application without taking note of the law laid down by the Hon'ble Supreme Court in the case of **Kunj Behari Misra**, and **S. P. Malhotra (supra)**.

That being the admitted factual position, the entire impugned action is liable to be quashed on the aforesaid ground itself and this Court accordingly does so.

This petition is allowed, order impugned Annexure-4



dated 31.03.2008 and the order passed by the appellate authority as contained in Annexure-5 dated 30.12.2008 and the order of the reviewing authority, Annexure-7, dated 28.09.2010 are quashed. All consequential benefits shall be granted to the petitioner.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2017
Transmission Date	

