

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11215 of 2011

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Mukesh Kumar Agrawal, S/O Shri Ramji Lal Agrawal, R/O Deoki Complex, P.S.-
City Chowk, Patna City, District.-Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department Govt. of Bihar
Patna.
3. The Joint Secretary, General Administration Department, Govt. of Bihar,
Patna.
4. The Deputy Secretary, General Administration Department Govt. of Bihar,
Patna.
5. The Under Secretary, General Administration Department, Govt. of Bihar,
Patna
6. The Commissioner, Munger Division, Munger.
7. The Collector-Cum-District Magistrate, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ritesh Kumar, Advocate
Mr. Sanjeet Kumar Singh, Advocate
For the Respondent/s : Mr. Ajit Kumar Jha, AC to GP-2

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 19-08-2017

Challenging the order, Annexure-6 dated 10.02.2010,
passed by the State Government imposing punishment of stoppage of
three increments without cumulative effect, denying the promotion to
the petitioner for the aforesaid period and confirming the period of
suspension; this writ petition has been filed.

Having heard learned counsel for the parties at length, it
is seen that the petitioner was proceeded against, certain charges were
levelled against him in the matter of discharge of his duties as a Block
Development Officer and the dereliction of duty detected by the



Chairman of the Bihar State Bridge Construction Corporation Limited during his visit in the area in question. The charge memo was issued to the petitioner, a detailed enquiry was conducted and the enquiry officer submitted his report, Annexure-5, on 09.12.2009. The enquiry officer in his report, as is evident from the conclusion recorded by him, holds that the charges levelled against the petitioner have not been proved and the petitioner is exonerated of all the charges. However, without notice to the petitioner, without hearing him and without recording a finding of guilt by differing from the finding of the enquiry officer following the due process of law, the disciplinary authority straightway recorded a finding of guilt without notice to the petitioner and imposed the order of punishment.

As the aforesaid act of the disciplinary authority in differing from the finding of the enquiry officer and recording a different conclusion is contrary to the 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], this Court has no hesitation in holding that the act of the respondents in imposing the punishment for the reasons recorded hereinabove are unsustainable and there is no reason why the petition



should not be allowed.

Accordingly, this petition is allowed and the order impugned, Annexure-6, dated 10.02.2010 stands quashed.

(Rajendra Menon, CJ)

Sunil/-

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

