

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9396 of 2012

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Mani Kant Jha, S/O Jiwachch Jha, Resident Of Village-Bhalpatti (O.P.), P.S. Darbhanga Sadar, District-Darbhangha, At Present Working As Constable, Police Line, Sitamarhi, District-Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur Range, Muzaffarpur.
4. The Deputy Inspector General of Police, Saran Range at Chapra, District-Chapra.
5. The Superintendent of Police, Saran at Chapra, District-Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Advocate Mr. Pranav Kumar Jha, Advocate Mr. Roshan Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Dhurjati Kr Prasad, G.P.-14 Mr. Subodh Kumar Mishra, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 19-08-2017

By the impugned order, Annexure-8 dated 28.02.2008, petitioner has been imposed with a punishment of stoppage of two increments without cumulative effect which is equivalent to three black marks in his character roll and service record.

Having heard learned counsel for the parties it is clear that the enquiry officer in his report, Annexure-7 available at page 31 of the paper book has exonerated the petitioner of all the charges levelled against him. However, the disciplinary authority in his order, Annexure-8 dated 28.02.2008, has held the petitioner guilty of charges levelled by disagreeing with the finding of the enquiry officer, but



while doing so, the disciplinary authority has not issued notice to the petitioner, heard him and has proceeded in the matter in violation of the law laid down by the Hon’ble Supreme Court in the case of **Punjab National Bank & Ors Versus Kuj Behari Misra**, [(1998) 7 SCC 84], and in the case of **S. P. Malhotra Vs. Punjab National Bank & Ors.** [(2013) 7 SCC 251]. The appellate authority has also rejected the appeal without considering the legal proposition as detailed hereinabove.

In view of the above, the petition is allowed, orders impugned, Annexure-8 dated 28.02.2008, passed by the disciplinary authority and Annexure-10 dated 28.05.2010 passed by the appellate authority are quashed. Petitioner shall be entitled to all consequential benefits in view of the quashment of the orders. However, the disciplinary authority shall have liberty to proceed in accordance with law, if advised.

(Rajendra Menon, CJ)

Sunil/-

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

