

# IN THE HIGH COURT OF JUDICATURE AT PATNA

## Civil Writ Jurisdiction Case No.1531 of 2015

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Jaleshwar Sahani. Son of Late Mahendra Sahani. Resident of Village - Laskaripur,  
P.S.- Kanti, P.O.- Kalwari, District - Muzaffarpur (Bihar).

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Director General of Police, Bihar, Patna.
3. Inspector General of Police, Muzaffarpur.
4. Deputy Inspector General of Police, Tirhut Range, Muzaffarpur.
5. Superintendent of Police, Sitamarhi. .... .... Respondent/s

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### Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, AC to GA 2.

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**

### ORAL JUDGMENT

**Date:** 01-05-2018

Heard learned counsel for the petitioner and the  
respondent State.

2. Upon his acquittal in Sessions Trial No. 313 of 1996  
by the Court of Additional District and Sessions Judge, Sitamarhi  
under judgment dated 29.04.2006 in respect of identical charges, the  
petitioner approached this Court by filing C.W.J.C. No. 1773 of 2007.  
The same was disposed off under order dated 05.08.2011. The  
operative portion of the said order is being reproduced herein below :

“4. Let the Superintendent of Police,  
Sitamarhi, Respondent no.2 reconsider the earlier  
order bearing Memo No. 755/C dated 25.3.1996,  
Annexure-2 in the light of the finding of acquittal  
recorded under judgment dated 29.4.2006 in the  
light of the law laid down by the Hon’ble Supreme  
Court in the case of Capt. M. Paul Anthony Vrs.  
Bharat Gold Mines Ltd. and another (supra), as



early as possible, in any case within two months from the date of receipt/ production of a copy of this order before the Superintendent of Police, Sitamarhi, Respondent no.2.”

3. Subsequent thereto in compliance of the directions contained in the order passed in C.W.J.C. No. 1773 of 2007, office order bearing memo no. 2206 dated 07.08.2011 has been issued by the Superintendent of Police, Sitamarhi and order dated 23.11.2011 has been issued by the DGP Bihar, Patna disposing of the memorial (appeal filed by the petitioner) whereby the petitioner’s claim for reconsidering the earlier order of punishment dismissing him from service has been rejected.

4. The State has filed counter affidavit. It is the specific stand of the State that as a result of an independent and duly constituted departmental enquiry, the petitioner was found guilty. The said order is based on certain admissions made by the petitioner though he claims that by mistake in a scuffle the husband of the complainant suffered fatal firearm injury.

5. In the departmental proceedings conducted against the petitioner the final order terminating the petitioner’s services was issued by the Superintendent of Police, Sitamarhi on 25.03.1996. From the same it is apparent that the plea of mistake has been disbelieved by the authority on the ground that though the petitioner has pleaded that one gun shot has been fired but in the occurrence for



which the petitioner has been proceeded the victim suffered three firearm injuries. Thus, the plea of firing by mistake has been disbelieved with reference to the evidence and witnesses in a dully constituted proceedings conducted against the petitioner which was independent of the criminal trial. The order therefore, has been issued by the Superintendent of Police rejecting the petitioner’s claim for reconsidering the punishment.

6. This Court does not find any reason to interfere with the same since the finding in the departmental proceedings, independent of the criminal trial have been recorded with reference to the evidence and witness examined in course of the enquiry and on the standard of preponderance of probability. Merely because identical charges could not be established observing the strict standard of proof in the criminal trial, the authorities were not bound to give any benefit to the petitioner.

7. In view of the facts considered in the enquiry, the writ petition is devoid of merit and the same is dismissed.

**(Madhuresh Prasad, J)**

Prakash/-

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