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**(2013) 11 PAT CK 0065**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 7362 of 2003

Arjun Pd. Verma

APPELLANT

Vs

State of Bihar

RESPONDENT

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**Date of Decision :** 22-11-2013

**Acts Referred:**

**Citation :** (2015) 3 BBCJ 264

**Hon'ble Judges :** Kishore Kumar Mandal, J.

**Bench :** Single Bench

**Advocate :** Mr. Binod Kr. Singh, Advocate, for the Petitioners; Mr. (GP1), for the Respondents

**Final Decision :** Dismissed

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## **Judgement**

Kishore Kumar Mandal, J. (Oral) - Heard the parties.

2. This application filed under Article 226 of the Constitution of India is directed against the order dated 24.01.2003 (Annexure-11) passed by the disciplinary authority whereby, upon conclusion of the departmental proceeding, the petitioner was dismissed from service. The petitioner preferred appeal there against before the appellate authority. The appeal was considered and rejected which was communicated to the petitioner vide letter bearing memo no.506(8) dated 20.06.2003 which has also been impugned.

3. While the petitioner was serving at T.B.D.C. Agamkuan as Clerk he was departmentally proceeded against for having misconducted himself and involved in committing serious financial irregularities. The charge sheet was framed and served upon the petitioner. The petitioner filed reply/show cause thereto. The Enquiry Officer upon conclusion of the enquiry submitted a report in which the charges were held to have been proved. The disciplinary authority issued second show cause notice to the petitioner which was also replied by the petitioner. On a consideration of the facts appearing from the records the disciplinary authority having found that the charges have been proved against the petitioner which was

serious in nature passed an order on 24.01.2003 (Annexure-11) whereby he was dismissed from service. Aggrieved thereby the petitioner filed an appeal before the appellate authority which was also considered and rejected.

4. Learned counsel for the petitioner in support of the writ petition has submitted that an FIR (Annexure-1) was also lodged against the petitioners in which no charge sheet was filed. The Respondent State lodged another FIR (Annexure-2) in which the petitioner has not even been made accused. It has thus been submitted that respondents themselves did not find any serious charge against the petitioner justifying lodging of the FIR.

5. Having heard the parties, this Court is of the view that non filing of the FIR against the petitioners could not be a good ground to interfere with the order of dismissal passed in the departmental proceeding particularly when no defect in the decision making process has been shown to this Court causing any prejudice to the petitioner. The purpose of departmental proceeding is to inquire and find whether the employee is fit to be retained in service. The purpose of criminal proceeding is different and distinct. This Court, therefore, does not find any substance in the submission of the learned counsel for the petitioner that an order passed in the departmental proceeding merits to be interfered with and quashed on the ground that no FIR was subsequently lodged against the petitioners.

6. Counsel for the petitioner has pointed out to the Court that the petitioner was scheduled to retire from service with effect from 31.01.2003 when few days before the final order in the departmental proceeding was passed by the disciplinary authority.

7. For the reasons noted above, this Court does not find any merit in this application which is accordingly dismissed.

8. No costs.