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had been stood over by an order passed on 26.3.2001 to 10.4.2001 in order to enable the respondents to place for our appraisal the relevant material used against him. On 10.4.2001, when the matter was taken up for hearing, Shri Rajinder Pandita, the learned counsel appearing for the respondents produced for our appraisal a file pertaining to the prosecution of the applicant under Sections 3 & 5 of the Official Secrets Act. On our perusal of the file, we did not find any material which could sustain the aforesaid finding against the applicant. On the contrary, the aforesaid prosecution had been dismissed after holding that there was no material whatsoever against the applicant to sustain the ~~aforesaid~~ allegations in relation to Sections 3 & 5 of the Official Secrets Act. When the matter was taken up for hearing on 16.4.2001, Shri Rajinder Pandita, learned counsel produced a copy of the letter dated 12.4.2001 of the Deputy Commissioner of Police, Vigilance, Delhi which stated that the relevant file could not be traced and the efforts are afoot to trace the same. The matter has thereafter been adjourned ~~to~~ a couple of occasions and when the matter is now taken up for hearing today, Shri Rajinder Pandita, learned counsel, we find, is not in a position to place any material whatsoever for our appraisal which could justify the passing of the aforesaid order of penalty of dismissal from service without holding a regular departmental enquiry by resorting to Article 311 (2)(b) of the Constitution.

2. Having regard to the aforesaid attendant facts and circumstances, we have no option but to quash and set

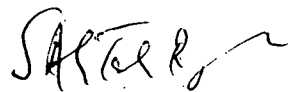
De. J.

OA

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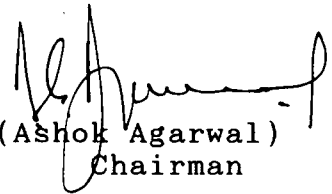
aside the impugned order of penalty dated 26.9.1991 at Annexure A-1 and the order issued by the appellate authority on 22.11.1999 at Annexure A-2 as also the order of suspension dated 14.8.1991 at Annexure A-3. The applicant, in the circumstances, will now become entitled to be reinstated back in service with consequential benefits at 50% of back wages. The respondents will pay the costs to the applicant of this OA quantified at Rs.10,000/- (Ten Thousand only). It is clarified that it will be open to the respondents, if they are advised, to hold a regular departmental enquiry in connection with the very same charges which have been, ^{the subject matter of the present} stated in the charge sheet.

3. Present OA is allowed in the aforestated terms.



(S.A.T. Rizvi)
Member (A)

/sunil/



(Ashok Agarwal)
Chairman