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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 5.8.94.

OA 982/90

K.C. GUPTA

... APPLICANT.

Vs.

UNION OF INDIA

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.
HON'BLE MR. B.K. SINGH, MEMBER (A).

For the Applicant ... SHRI JOG SINGH.

For the Respondents ... NONE.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Applicant was served with a charge-sheet and departmental proceedings were initiated against him. During the course of the departmental proceedings, the applicant submitted an application dated 12.3.80 (Annexure-V) stating therein that he is observing Nav-Ratra ceremony for the full nine days and the enquiry should not be fixed during these nine days i.e. between 17th to 25th March, 1980. However, the enquiry was conducted on 17th but it was adjourned to 19th and 20th thereafter. On 19th March, 1980, he again made a representation and on 20th March, 1980 he declined to participate in the inquiry. After considering the report of enquiry officer, the disciplinary authority passed the order imposing the penalty that "Pay reduced by two stages from Rs.366/- pm to Rs.350/- pm in the time scale of Rs.260-400 for a period of two years with immediate effect. Shri K.C. Gupta will not earn increment of pay during the said period and after the expiry of said period the reduction will have the effect of postponing the future increments of his pay." The applicant preferred an appeal against the order of the disciplinary authority. His appeal against the

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penalty order was considered by the appellate authority, who reduced the penalty. Being aggrieved with the order of maintaining the partial penalty, the applicant submitted a memorial before his excellency the President of India, which was also rejected.

2. We have heard the learned counsel for the applicant. None is present on behalf of the respondents. The learned counsel for the applicant invited our attention to Annexure A-5 dated 12.3.80, by which prayer was made not to fix up the date between 17th to 25th March, 1980 on account of Nav-Ratra.

3. On 17th March, 1980, the date was fixed and the applicant appeared under protest. In spite of his request the case was adjourned to 19th and again it was fixed on 20th March, 1980. On 20th, he has not participated in the disciplinary proceedings. The principles of natural justice require that a person should be given proper opportunity to plead his case or to defend himself. Ordinarily, during Nav-Ratra in our country many people observe fast and they do not participate in any official function. Taking into consideration this aspect only, we remit the case to the appellate authority with direction that the applicant should be allowed to raise any point or to cross-examine the witnesses who were examined from 17th March, 1980 and thereafter and the appellate authority should pass a proper order after considering the defence led and the proceedings taken in between.

4. The OA is disposed of accordingly, with no order as to costs.

(B.K. SINGH)
MEMBER (A)

D.L. Mehta
(D.L. MEHTA)
VICE CHAIRMAN