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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

T.A. No. 1247 of 1987.

R.P. AgnihotriApplicant

Versus

Union of India & othersRespondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant was a regular employee of Defence Materials & Stores, Research & Development Establishment, Kanpur. A promotion order on 26.6.80 was issued to the applicant. On 30.6.80, a charge-sheet was issued to the applicant for mis-conduct and acting in a manner unbecoming of a Government servant by hitting with a screw driver on the forehead of D.N. Misra, Junior Scientific Assistant, Grade-I, as a result of which blood started oozing from his forehead. As the result of the issuance of the said charge-sheet, the promotion of the applicant was withheld and the others were promoted. The departmental proceedings took place and ultimately the applicant was censured. The applicant filed an appeal against this order of withholding his promotion. His appeal was dismissed and thereafter he filed a writ petition which has been transferred to this Tribunal by operation of law.

2. The factual position is that there was no charge-sheet against the applicant when the promotion order was issued to him. The respondents

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have pleaded that the preliminary enquiry had been completed and a decision to issue a charge sheet was taken earlier but as the time was taken and that is why the charge sheet was issued on 30.6.80 and the section from which the promotion order was issued, was not aware of this factual position. May be so. When the promotion order was issued, there was no charge sheet against the applicant and as such the respondents were bound to promote the applicant. Withholding of promotion is a minor penalty and for imposing penalty, an enquiry may take place or may not take place but a representation from the delinquent employee is taken only thereafter a decision is taken but nothing like that happened in this case. Accordingly, this punishment could/have been given to the applicant without holding an enquiry as is contemplated under section 16 of CCS(CC&A) Rules. As such the order by which the promotion order was withheld is quashed and the respondents are directed to promote the applicant from the date when the others were promoted. The applicant will not be entitled for the monetary benefit of the promotional post as the actual promotion is given to the applicant from that date. With these observations, the application is disposed of without any order as to costs.

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MEMBER (A)

DATED : MAY 8, 1992
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VICE CHAIRMAN