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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH ,  
ALLAHABAD.

O.A.No.691 of 1988.

(4)

Bhagwat Rai .....Applicant.

Versus

Union of India & others .....Respondents.

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

Hon'ble Mr. K. Obayya, A.M.

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

The applicant is presently working as Examiner 'B' in the Quality Assurance Department of Ordnance Equipment Factory, Kanpur after reinstatement in service on moderation of penalty of compulsory retirement from service to that of reduction to the post of Examiner 'B' by the order passed by the ADGOF on 6.11.87. The applicant was charged sheeted on 19.7.84. The applicant denied the charges levelled against him. An Enquiry Officer was appointed who conducted the enquiry . The Enquiry Officer did not find the applicant guilty of the charges levelled against him and submitted his report to the Disciplinary Authority. The Disciplinary Authority did not agree with the finding recorded by the Enquiry Officer and passed the punishment order dated 24.1.87 imposing penalty of compulsory retirement from service w.e.f. 24.1.87. He filed an appeal and the A.D.G.OF vide order dated 6.11.87 moderated the punishment of compulsory retirement to the penalty of reduction to the post of Examiner 'B' from the post of Supervisor 'B'. Feeling aggrieved by the same, he approached this tribunal and challenged the said order on variety of grounds. One of the grounds, taken by the applicant, is that the Disciplinary Authority while disagreeing with the findings, recorded by the Enquiry Officer, ought to have given a show cause notice to the applicant

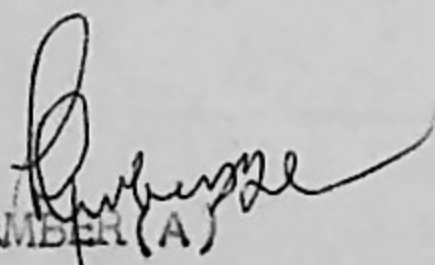
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assigning reasons therein of his disagreement but the same has not been done in this case. Reference has been made to the case of 'Narainji Mishra Vs. State of Orissa' 1969 SLR 697' in which it has been held that where the Disciplinary Authority disagrees with the findings, recorded by the Enquiry Officer, an opportunity is to be given to the delinquent employee which was not done in the case and which violates the principle of natural justice vitiating the proceedings. The same position arises in this case. Accordingly, the application is allowed and the orders dated 21.1.87 and 6.11.87 are quashed. However, it will be open for the Disciplinary Authority to proceed with the enquiry after giving show cause notice to the applicant to file objections against the same. No order as to costs.

  
MEMBER (A)

DATED: JULY 22, 1992  
(ug)

  
VICE CHAIRMAN.