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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A. No. 1252 of 1988.

Amarjit Singh Applicant.

Versus

Union of India & others Respondents.

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 working as Machinist, Highly Skilled Grade-II in the Small Arms Factory, Kanpur at the relevant point of time. It appears that some FIR was lodged on 1.1.78 against the applicant and others. The applicant did not inform the Management regarding his involvement in the criminal case in which a charge-sheet was submitted and the applicant was convicted by the Metropolitan Magistrate, Kanpur vide order dated 2.8.82 to undergo R.I. for one year under section 147 IPC, for 1½ years' R.I. and a fine of Rs. 250/- or three months' R.I. in default under section 452 IPC and one year's R.I. under section 323 IPC read with section 149 IPC. The applicant was released on personal bond. It appears that information was given by Nagrik Kalyan Parishad, Kanpur about conviction of the applicant. On 25.8.82, the applicant was placed under suspension on the ground of contemplated enquiry. In the month of January, 1983, a show cause notice mentioning that it had been intimated by the Metropolitan Magistrate, Kanpur that the applicant was held guilty in the criminal case wherein the applicant along with many others, was accused of going armed with lathies, dandas and brickbats and entering the

house of Shri Rang Nath Dubey and assaulting him, was issued to the applicant. The applicant also received a memorandum of charge sheet. An Enquiry Officer was appointed and the Enquiry Officer submitted his report to the Disciplinary Authority. In the meant time, vide order dated 4.9.85, the appeal preferred by the applicant against his conviction was allowed and he was acquitted. The revision against the same was also dismissed by the High Court vide order dated 20.2.87. The applicant's suspension order was also revoked on 15.10.85. The Enquiry Officer in his report concluded that the charges against the applicant were not proved. The Disciplinary Authority disagreed with the findings of the Enquiry Officer and held that the applicant was guilty of the charges framed against him and imposed the penalty of stoppage of the increment with cumulative effect against which the applicant filed an appeal which too was dismissed on the ground that the Disciplinary Authority disagreed with the findings recorded by the Enquiry Officer. It was incumbent upon the Disciplinary Authority to give an opportunity to the applicant to file representation against the same. In this connection, reference has been made to the case of 'Narayanji Mishra Vs. State of Orissa 1969 SLR page 697' in which it has been held L that where the Disciplinary Authority disagreed with the findings of the Enquiry Officer, an opportunity is to be given to the delinquent

employee . It was not done in this case which violates the principle of natural justice vitiating the entire enquiry proceedings. The same position arises in the instant case. Accordingly, the application is allowed and both the orders dated 1.12.86 and 18.12.86 are quashed. However, it will be open for the respondents to hold an enquiry after giving an opportunity to the applicant to file objection against the same and thereafter the Disciplinary Authority will pass an appropriate order. No order as to costs.

thomas
MEMBER(A)

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VICE CHAIRMAN.

DATED: JUNE 29, 1992

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