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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL      ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 22nd day of February 2001.

Original Application no. 52 of 1994.

Hon'ble Mr. V. Srikantan, Administrative Member

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hari Shanker,  
s/o late Putti Lal,  
R/o Qr. No. 6/36, Rani-Ka-Bagicha,  
Purana Kanpur, Kanpur.  
Previously employed as Durwan, P. No. 068051,  
Ticket No. 65/Gate, Ordnance Equipment Factory,  
Kanpur.

... Applicant

C/A Shri N.K. Nair  
Shri M.K. Updhayaya

Versus

1. Union of India, through the Secretary,  
Ministry of Defence,  
Department of Defence Production,  
Government of India,  
NEW DELHI.

2. Additional Director General,  
Ordnance Factories, OEF Group Hd. Qrs.,  
G.T. Road,  
KANPUR.

3. General Manager,  
Ordnance Equipment Factory,  
KANPUR.

.. Respondents

C/Rs Km. Sadhana Srivastava

... 2/-

*V. Srikantan*

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O R D E R (Oral)

Hon'ble Mr. V. Srikantan, Member-A.

The applicant, Shri Hari Shanker, was employed as Durban, was proceeded departmental, which was that he was allegedly committed un-natural offence with out sider boy during duty hours on 19.10.1990 at about 1130 hrs. The applicant having denied the allegation and an inquiry was held.

The inquiry officer held that the charges were not fully established and benefit of doubt goes infavour of the applicant. However, the disciplinary authority i.e. General Manager Ordnance Equipment Factory, Kanpur did not agree with the findings of the inquiry officer and held that the charges levelled against the applicant has been established beyond doubt and imposed the penalty of dismissal from service w.e.f. 13.09.1991. The applicant, had, thereafter, preferred appeal, which was rejected on 17.08.1992. The applicant had, thereafter, filed a review petition which was considered and also rejected on 16.09.1993. Hence this O.A. in which the applicant has sought for quashing the order of disciplinary authority, order of appellate authority and the revisionary authority, rejecting his applications and seeking consequential benefits.

2. The main ground placed by the applicant is that though the disciplinary authority did not agree with the findings of the inquiry report.

....3/-

*V. Srikantan*

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The applicant was not given any opportunity and no show cause notice was served showing reasons for dis-agreement were made available to him.

3. During, hearing our attention was brought towards 1999 SCC (L&S) 1385, Yogenath D. Bagde versus State of Maharashtra and others, wherein the apex court has held that disciplinary authority before forming its final opinion, has to convey to the charged employee its tentative reasons for dis-agreeing with the findings of the Enquiry Officer. It is seen that in this case no such show cause notice has been issued to the applicant.

4. For the above reasons, without going into other aspects of the case, we quash the order of the disciplinary authority dated 13.09.1991, appellate authority order dated 07.08.1993 and revisionary authority order dated 16.09.1993. The respondents are at liberty to proceed with the inquiry after giving necessary show cause notice regarding non-acceptance of the finding of the inquiry report to the applicant.

5. No order as to costs.

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### Member-J

### Member -A

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