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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD; BOMBAY-400001

OA NOS. 410/89 & OA No.59/90

Mr. V S Cutinho
A-4/2 Navageetanjali Society
41 Aundh Road
Pune-3

APPLICANT IN OA410/89

Mr. Rajendra Rasiklal Shah
Junior Scientific Assistant Gr.I
E.R.D.L. Pashan
P u n e

APPLICANT IN OA59/90

V/s.

1. Union of India
through Ministry of Defence
represented by Under Secretary
to Min. of Defence
Government of India
New Delhi
2. Director
D.R.D.S.
E.R.D.L. Pashan
Pune

RESPONDENTS

CORAM: HON.SHRI JUSTICE U G SRIVASTAVA, V.C.
HON.SHRI M Y PRIOLKAR, MEMBER (A)

APPEARANCE

MR. A G ABHYANKAR
ADVOCATE
FOR THE APPLICANT

MR. M I SETHNA
COUNSEL
FOR THE RESPONDENTS

ORAL JUDGMENT

DATED: 11-10-1991

(PER: U C Srivastava, Vice Chairman)

The applicants were working as Junior Scientific Assistant Gr.I in the office of the Director ERDL, Pune along with one Mr. R R Shah were charge sheeted, on 26.2.1985 on the charge that they indulged in pilferage of petrol from Government Motor Cycle and that they did not book out timing in the overtime register. The applicants submitted their reply and the inquiry took place. The Inquiry officer held them guilty and a minor penalty of Censure. The President called for record and disagreed

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with the findings of the Inquiry Officer and consequently onr Dr. J P Agarwal was appointed as Inquiring Officer. Dr. Agarwal conducted the inquiry and written the verdict that the applicants are not totally guilty. The President disagreed with the said finding and held that the applicants are guilty of all the articles of charges and imposed the penalty of withholding the promotion for 5 years. Feeling aggrieved, the applicants approached the Tribunal. There is no denial of the fact that the President while disagreeing with the Inquiry officer and before awarding the penalty to the applicants he did not give any notice to the applicants nor any opportunity for hearing was given them.

The applicants were thus deprived to defend themselves and is in violation of the principles of Natural Justice. As has been observed by the Supreme Court in the case of NARANJI MISRA V. STATE OF ORISSA 1969 SLR 657 this vitiates the President's order, of pgnishment.

Accordingly the applications deserves to be allowed and the punishment order dated 16th February 1989 is quashed and set aside. Consequences to flow. This will not preclude the Respondents no.1 in case he still deserves to proceed with the inquiry in accordance with the law. There would however be no order as to costs.

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11/10/91
Dispatched
to respondent(s)
on 11/12/91

[Signature]
11/12/91