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C.A.No. 613 OF 2002  
ITEM No.103

COURT NO. 10

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 613 OF 2002@@  
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HINDUSTAN PETROLEUM CORP.LTD., BOMBAY ...APPELLANT

VERSUS

SATISH KUMAR VIBHUTE ...RESPONDENT  
(With office report)

Date : 21/01/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. Raju Ramachandran, ASG  
Mr. Sanjay Kapur, Adv.  
Ms. Sbhuhra Kapur, Adv.

For Respondent (s) Mr. Ranjit Kumar, Sr.Adv.  
Mr. Vipin Nair, Adv.  
Mr. P.B. Suresh, Adv.

UPON hearing counsel the Court made the following  
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Mr. Raju Ramachandran, learned Additional Solicitor General appearing on behalf of the appellant started his arguments at 12.05 p.m. and concluded at 2.20 p.m. After that, Mr. Ranjit Kumar, learned senior counsel appearing for the respondent argued the matter till 2.45 p.m.

The appeal is disposed of in terms of signed order.

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Sarita (Shelly Sengupta)@@  
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Court Master@@  
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 613 OF 2002@@  
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HINDUSTAN PETROLEUM CORP. LTD., BOMBAY ...APPELLANT

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The respondent who is an employee of the appellant-Corporation, while he was working at Khapri (Nagpur) plant from 29th September, 1987 to 10th August, 1989, he was served with a charge-sheet alleging certain acts of misconduct, thereby causing a financial loss of Rs.11,800/- to the appellant. An Enquiry Officer was appointed to hold enquiry into the alleged misconduct. The Enquiry Officer, after conducting enquiry, found that the charges levelled against the respondent were not proved. In that view, the Enquiry Officer exonerated him from all the charges of misconduct. However, on receipt of the report of the Enquiry Officer, the Disciplinary Authority did not agree with the findings recorded by the Enquiry Officer. In that view, the Disciplinary Authority imposed a punishment of demoting the respondent from

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Officer Salary Grade 'C' to Officer Salary Grade 'B' and further he was directed to make good the loss of Rs.11,800/- to the appellant-Corporation. The respondent aggrieved by the said order of demotion and direction to make good the loss of Rs.11,800/- preferred a statutory appeal against the order of the Disciplinary Authority challenging the same on various grounds. When the statutory appeal was pending, Shri H.L. Zutshi, who was the Disciplinary Authority, became the Chairman-cum-Managing Director of the appellant-Corporation. In that position he automatically became the Appellate Authority as well. Apprehending that in the given situation the respondent may not get justice, he filed Writ Petition No.933/97 before the High Court. The said writ petition was disposed of by the High Court on 3rd July, 1997 after noticing that the Disciplinary Authority had become an Appellate Authority, directing the functional Directors of the appellant-Corporation to dispose of the appeal within a period of four weeks. A further direction was given that in the peculiar facts and circumstances of the case, without creating any precedent whatsoever, the respondent shall be given a personal hearing by the said

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Committee before passing an order in the appeal. The afore-mentioned Committee of functional Directors dismissed the appeal concurring with the findings recorded by the Disciplinary Authority. The respondent being aggrieved and dissatisfied with the order of the said Committee, filed the review petition which was heard by the Board of Directors and rejected upholding the punishment imposed by the Disciplinary Authority as affirmed by the Committee of functional Directors. Under

the circumstances, the respondent had to approach the High Court again by filing the present writ petition. The High Court disposed of the said writ petition following the judgment of this Court in Punjab National Bank & Ors. -vs. Kunj Behari Misra [(1998) 7 SCC 84] finding fault with the order of the Disciplinary Authority and also the order imposing the punishment on the respondent on the ground that when the Disciplinary Authority disagreed with the findings recorded by the Enquiry Officer, an opportunity ought to have been given to the respondent. In that view, the High Court allowed the writ petition and set aside the order imposing punishment on the respondent. However, opportunity was

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given to the appellant-Corporation to take action against the respondent after giving an opportunity in accordance with law. This time it was the appellant-Corporation which was aggrieved by the order of the High Court. Hence this appeal.

Mr. Raju Ramachandran, learned Additional Solicitor General appearing on behalf of the appellant contended that the impugned order passed by the High Court cannot be sustained. The order of punishment imposed on the respondent could not be set aside following the judgment of Punjab National Bank's case.

Having regard to the fact that in the earlier writ petition the High Court passed the order after hearing both the parties, directing the Committee of functional Directors to give a personal hearing, that having been done and the respondent having availed of the opportunity of challenging the said order of the Committee in a review application, he could not have re-agitated the question that the Disciplinary Authority ought to have given an opportunity when it had disagreed with the findings recorded by the Enquiry Officer. Learned Additional Solicitor General went on to say that the High

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Court was also not justified in disturbing the order of punishment imposed on the respondent merely on the ground that no opportunity was given to the respondent by the Disciplinary Authority when it was not shown that how any prejudice was caused to the respondent.

Per contra, Mr. Ranjit Kumar, learned senior counsel appearing for the respondent made submissions in support and justification of the impugned order. He submitted that in the light of the judgment in Punjab National Bank's case (supra), the High Court was right and justified in setting aside the order of imposing punishment on the respondent.

In the statutory appeal filed by the respondent no ground was raised by him that on account of not giving any opportunity by the Disciplinary Authority the respondent suffered any prejudice, although the order of Disciplinary Authority imposing punishment on him was challenged on several grounds. In the earlier judgment passed by the High Court in presence of both the parties

in the peculiar circumstances of the case, as noticed by the High Court, perhaps to give an opportunity to the respondent which was otherwise denied by the Disciplinary ..6/-

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Authority, the High Court directed the Committee to give a personal hearing to the respondent before passing the order. Of course the Committee considered the appeal on merits and concurred with the order passed by the Disciplinary Authority. So also in the review application the Board of Directors did not find any good ground to differ from the findings recorded by the functional Directors. In this view, when the matter went before the High Court, the High Court, in our opinion, ought to have considered the respective contentions on merits to decide the main question - whether the order of punishment imposed on the respondent could be sustained. As already indicated above, the High Court without going into the merits of the other contentions disposed of the writ petition mainly on the ground that the Disciplinary Authority did not provide an opportunity to the respondent when it had disagreed with the findings of the Enquiry Officer following the judgment of this Court in Punjab National Bank's case. Having regard to the facts@@ CCCCCCCCCCCCCCCCCCCCCC and circumstances of the case and particularly taking note of the fact that the disciplinary proceedings were ..7/-

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initiated in the year 1987, we think it appropriate that the High Court disposes of the writ petition on merits of the contentions raised by the parties.

We make it clear that it is open to the parties to urge all the contentions that are available to them except the contention that the Disciplinary Authority did not provide an opportunity to the respondent before passing the order. In this view, the impugned order is set aside and the matter is remitted to the High Court to dispose of the writ petition dealing with the merits of the contentions that arise for consideration. Taking note of the fact that the proceedings are pending since 1987, we request the High Court to dispose of the writ petition within a period of four months from the date of the receipt of the copy of this order. The appeal is disposed of accordingly.

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.....J.  
(SHIVARAJ V. PATIL)

New Delhi,  
January 21, 2003.

.....J.  
(ARIJIT PASAYAT)