

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 11719/2009**
% **Date of Decision: 16th September, 2009**
FORE SCHOOL OF MANAGEMENT PETITIONER
! Through: Mr. P.R. Rajhans, Advocate.
VERSUS
\$ NAVIN CHANDRA KANDPAL RESPONDENT
^ Through: Mr. Rajiv Nanda, Advocate.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

C.M. No. 11663/2009 in W.P.(C.) No. 11719/2009

Exemption as prayed for is granted subject to all just exceptions.

W.P.(C.) No. 11719/2009 and C.M. No. 11662/2009 (for stay)

The management of Fore School of Management in this writ petition, seeks to challenge an industrial award dated 03.09.2008 in I.D. No. 19/2007 directing reinstatement of respondent No. 1 with back wages.

2. Heard on admission.
3. The petitioner was appointed as an Attendant with the petitioner management w.e.f. 01.05.2002. After he had completed probation period of one year, he was confirmed in service as Attendant w.e.f. 01.05.2003. However, his services were terminated by the petitioner

management w.e.f. 31.07.2005 without holding any inquiry against him or giving any opportunity to him to prove the alleged misconduct. The respondent No. 1 aggrieved by his termination had raised an industrial dispute which was referred by the appropriate Government in the Government of NCT of Delhi for adjudication to the Labour Court. The petitioner was duly served with the notice of proceedings pending before the Labour Court. Since nobody appeared on behalf of the petitioner management despite service, the petitioner was proceeded ex-parte by the Labour Court vide order dated 29.09.2007. This ex-parte order passed against the petitioner was set aside at the request of the petitioner vide order dated 26.11.2007. Thereafter, the petitioner filed its written statement in which it was alleged that the respondent No. 1 was removed from service as he was found sleeping during duty hours and when he was warned, he had misbehaved and threatened the management. It was alleged that since the respondent No. 1 did not improve, the petitioner was left with no other alternative but to terminate his services. After filing of the written statement the petitioner again stopped appearing in the matter and, therefore, he was again proceeded ex-parte by the Labour Court vide order dated 18.08.2008.

4. It is an admitted case of the petitioner that no inquiry into the alleged misconduct was held by it against the respondent No. 1. The respondent No. 1 was a confirmed employee working with the petitioner management at the time of his termination. He could not have been removed by the petitioner without holding an inquiry into the charges against him. The termination of respondent No. 1 by the petitioner from its service was in violation of principles of natural justice. The respondent No. 1 has produced ample evidence before the Labour Court to show that he was working sincerely and honestly with the petitioner

management and rather, in support of his said contention, he had placed a certificate issued to him by the petitioner management (Ex. WW-1/2) certifying that the respondent No. 1 was working with them for the last three years and he was obedient, hardworking, sincere, honest and a decent person. When the petitioner management itself admits that the respondent No. 1 was a hardworking and an obedient workman, it does not stand to reason how he could be removed by the petitioner management without holding any inquiry against him into the alleged charges that he was found sleeping during duty hours or that he had allegedly disobeyed and threatened the management.

5. In view of what has been stated above, I do not find any infirmity, illegality or perversity in the impugned award passed by the Industrial Adjudicator in favour of respondent No. 1 directing his reinstatement with back wages. The petitioner should reinstate the respondent No. 1 in its service and pay him back wages as directed in the impugned award. However, liberty is granted to the petitioner management to hold an inquiry into the alleged charges against the respondent No. 1 and take such action as may be deemed appropriate as per law.

I do not find any merit in this writ petition which fails and is hereby dismissed in limine.

September 16, 2009,
'bsr'

S.N.AGGARWAL, J