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**(1999) 02 DEL CK 0044**

**In the Delhi High Court**

**Case No : Civil Writ No. 571 of 1994**

National Co-operative Development Corporation

APPELLANT

Vs

Manbar Singh Rawat and Another

RESPONDENT

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**Date of Decision : 03-02-1999**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1999) 1 AD 865 : (1999) 78 DLT 252 : (1999) 82 FLR 111 : (1999) RLR 246

**Hon'ble Judges :** Mukul Mudgal, J

**Bench :** Single Bench

**Advocate :** Sh. B.S. Shrawat, for the Appellant; Shri D.S. Dora, for the Respondent

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## Judgement

Mukul Mudgal, J.—This petition by the Employer i.e. National Co-operative Development Corporation challenges the order dated 9th December, 1993 passed by the Presiding Officer, Industrial Tribunal, Delhi the Tribunal granted reinstatement to the respondent No. 1. The impugned order observed as follows :

"..... On 7th August 1992, the representative of the management submitted that she was unable to persuade the management to give her file and documents etc. pertaining to this case and that no instructions had been given to her. She showed a desire to withdraw the case. She requested that a notice be given to the management. The prayer was to be uncalled for as she was representing the management and could intimate to the management to make arrangement for putting an appearance or to take further action in the matter and to take necessary proceedings. No further notice was required to be given by this Tribunal to the management. The proceedings would be ordered to be taken ex parte in such circumstances against the management on 7th August, 1992, when such a prayer was made, yet it was adjourned to 12th November, 1992 at the request of the representative of the management. She did not turn up on the next date nor anybody else cared to turn up for the management on that date

and so proceedings were taken ex parte."

2. The learned counsel for the petitioner has not been able to persuade me that the above reasoning of the Tribunal is assailable in the writ jurisdiction under Article 226 of the Constitution of India. The facts of this case demonstrate a casual and cavalier attitude to the proceedings in the Industrial Tribunal and the petitioners are not justified in challenging the award and take advantage to the detriment of the respondent No. 1, who is jobless.

3. It is significant to note on merits that even in the written statement the management has mentioned that the work of the respondent No.1 was unsatisfactory and he was indulging in indiscipline and unruly behavior and even then no charge sheet was issued to him and the method of termination by giving one month's notice under Regulation 12 of the National Cooperative Development Corporation Regulation was adopted. It was also found that the respondent No.1 was thrown out of his employment even though 55 persons junior to him were retained. The Tribunal also found that there was victimisation of the respondent No.1. Thus it is clear that it was incumbent upon the petitioners to have held an enquiry against the petitioner. The seemingly simple termination resorted to by the petitioner by recourse to Regulation 12 is a mere facade, particularly, when 55 employees junior to the respondent No.1 were found to have been retained in service.

4. In the light of this finding of the Industrial Tribunal, the award is not assailable under Article 226 of the Constitution of India and hence the writ petition is dismissed. All interim orders stand vacated.