

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

JUSTICE RAVINDRA NATH KAKKAR  
Presiding Officer

APPROVAL APPLICATION NO. CGIT-1/21 OF 2013

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Mr. Karl Driver : Opp. Party

Appearances:

For the Applicant : Mrs. Deepika Agrawal

For the Opposite Party : Absent

State : Maharashtra

Mumbai, dated the 22nd day of January, 2020.

JUDGMENT

1.. This is an Approval Application filed under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approval of order of "Removal from service" passed by the Air India Ltd against Mr.Karl Driver.



2. The facts necessary for the disposal of the present approval application may be summed up as under:

3. The Opposite Party was appointed in Air India as a Trainee Cabin Crew w.e.f. 05.01.2004. He was appointed on probation w.e.f. 05.07.2004 in the Inflight Service Department at NITC and confirmed in service w.e.f. 01.01.2005.

4. The Opposite party remained absent from 31.08.2012 till 06.09.2012 and further reported sick on September 07, 2012 and not reported for duties till date. The Opposite Party was directed to forward his sick certificate endorsed by Air India Medical Services Department to the Leave Cell, regularize his leave and also directed to contact the Cabin Crew Administration vide letter No. IS/ABS/3597-1 dated January 14, 2013 but there was no compliance on the part of the Opposite Party. The Opposite Party remained absent without permission for a period of 284 days from August 31, 2012 till date. The above alleged act on the part of the Opposite party constitute misconduct under the provisions of the Certified Standing Orders (Amended) applicable to him and the Opposite Party was charged with the following:

**Clause No. 19(2)(i): Willful insubordination of any lawful and reasonable order of superior;**

**Clause No. 19(2)(vi):** Absence without leave which is not regularized for want of sufficient grounds or proper or satisfactory explanation; and

**Clause No. 19(2)(viii):** Breach of any law, rules regulations or orders applicable to the establishment.



The Opposite Party was called upon to submit his written explanation to the aforesaid charges within 7 days of receipt of the letter No. IS/KD/303 dated June 17, 2013 but the opposite party did not submit any written explanation. The Competent Authority, therefore, decided to hold an enquiry into the charges leveled against him and informed the Opposite Party vide letter No. IS/KD/374 dated 13.07.2013. The Enquiry committee commenced its proceedings on July 19, 2013 and concluded on July 31, 2013 spread over 03 sittings. The Opposite Party neither participated in the enquiry proceedings nor informed his inability to attend the same. The Enquiry Committee forwarded a copy of the ex parte proceedings held on 31.07.2013 and asked him to submit his final statement but the opposite party did not make any final statement. The Enquiry Committee submitted its report dated August 22, 2013 to the Competent Authority. The Competent Authority forwarded a copy of the Enquiry Report to the Opposite Party and asked him to submit his SAY on the findings of the Enquiry Committee within 7 days of receipt of the same. The Opposite Party did not submit any reply. Taking into account the seriousness of the misconduct committed by the Opposite Party, the Competent Authority proposed to award the major penalty of "Removal from Services: as per Clause 20 ( e) of the Certified Standing Orders (Amended) applicable to the Opposite Party and asked him to submit his written explanation within seven days of the receipt of letter No. IS/KD/492 dated September 05, 2013. The envelope containing the said letter has been returned by the postal authorities with the remarks 'Refused to accept, "lene se inkaar"'. In view of the above, Competent Authority awarded the punishment of



“Removal from Service” on the Opposite Party as per Clause No. 20 Major Penalties (e ) of Certified Standing Orders (Amended) applicable to him. The order of Removal from Service was communicated to the opposite party with a cheque bearing No. 948976 dated 15.10.2013 for Rs. 28,585.00 being the wages for one month as required under section 33(2)(b) of the Act and filed the Approval Application before this Tribunal.

5. The Opposite Party did not appear before this Tribunal in spite of service of notice and, therefore, by order sheet dt.03.09.2014 this Tribunal directed that the proceedings be held ex parte.
6. Mrs. Deepika Agrawal, learned counsel for the applicant has filed the affidavit of Y.B.Kurane in support of the record and proceeding of the domestic enquiry.
7. Heard Mrs. Deepika Agrawal, learned counsel for the applicant and perused the approval application, the enquiry proceedings and consequential orders passed. The opp. Party remained absent for period of 284 days from 31.08.2012 and thereafter remaining absent till 06.09.2012 and further reporting sick on 07.09.2012 and not reported for duty till date. The opp. Party was charged under the provisions of the Certified Standing orders applicable to him. An enquiry committee was constituted to enquire into the charges and he was communicated about the constitution of the enquiry committee. The opp. Party did not attend the enquiry which was spread over 03 sittings. The enquiry report was sent to him for his ‘Say’ but he did not give any reply. The Competent Authority proposed to award the punishment of ‘Removal from Service’ and asked him to file his “Say’. The



opp. Party did not submit his 'Say'. The order of Removal from Service was communicated to the opposite party with a cheque bearing No. 948976 dated 15.10.2013 for Rs. 28,585.00 being the wages for one month as required under section 33(2)(b) of the Act and filed the Approval Application before this Tribunal.

8. In the circumstance of the case, I find that the enquiry held was legal, fair and proper. This Tribunal is satisfied that all the efforts were made by the management to inform the workman at each stage of the enquiry. Every effort was made to provide him opportunity to defend him and also to furnish his explanation but the workman did not availed the opportunity given to him. It is thus clear that proper enquiry has been made and prima facie case is clearly made out against the Opposite Party for his removal from service. One month's wages were duly tendered. Application for approval was made promptly.
9. I accordingly grant this approval ex parte. However, in all fairness to the workman, I would clarify that this order shall not preclude the workman from raising an industrial dispute challenging the legality, correctness and propriety of the punishment imposed upon him and in case such a dispute is raised and adjudicated eventually, nothing contained herein shall be read to the prejudice of the workman. With the aforesaid observations, the application is granted ex parte and approval is accorded to the action taken by the management in removing the Opposite Party workman from service.



*sd/-*  
(JUSTICE RAVINDRA NATH KAKKAR)  
PRESIDING OFFICER

*[Signature]*  
Secretary to the Court  
Central Government Industrial  
Tribunal-cum-Labour Court No. I  
Mumbai