

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

CAMP: DELHI

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. NTB-150 OF 2017
(Arising out of Ref.No. 1 of 1990)

Parties: Air India Ltd., Delhi : Applicant
Vs.
Ms. Kanti Baxla : Opp. Party

Appearances:

For the Applicant : Mrs. Pooja Kulkarni, Adv.
For the Opposite Party : Opp. Party present in person.
Camp : Delhi

New Delhi, dated the 13th day of December, 2019.

JUDGMENT

- 1.. This is an Approval Application filed under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approval of order of Dismissal from service passed by the Air India Ltd against Ms. Kanti Baxla.
2. The facts necessary for the disposal of the present approval application may be summed up as under:



2. The Opposite Party was appointed as Catering Assistant on 28th May 1992 in the Applicant Company. She was issued with a chargesheet vide letter No. IGIA/PS/DIS/25 dated 13.8.2013 for unauthorized absence of 418 days for the period from June 2012 to July 2013. The Opposite Party submitted her reply dated 22.08.2013 in response to the chargesheet dated 13.8.2013. The Competent Authority, did not find any merit in the reply filed by the opposite party and decided to hold an enquiry into the charges leveled against the Opposite Party and the same was communicated to the opposite party vide letter No. IOCC/DEL/2013/38 dated 22.11.2013. The Enquiry Officer asked the Opposite Party to appear for enquiry on 04.06.2014 vide his letter dated 22.5.2014. The Opposite Party participated in the enquiry on 04.6.2014 which was concluded on the very same day. The report of the Enquiry Officer was sent to the Opposite Party to which the Opposite Party submitted her reply. The General Manager (IOCC) after going through the findings of Enquiry Officer, reply of the Opposite Party and considering the gravity of the misconduct, was of the view that the case warranted a severe punishment which was beyond his competence and forwarded the case to the Executive Director (N/R) for consideration. The Competent Authority i.e. Executive Director (N/R) after going through the entire case and relevant documents proposed show cause for punishment of "Dismissal from the services of the Company with immediate effect" vide letter No. DRD/DIS/18A/863 dated 19.2.2015 and the opposite party was asked to showcause within 07 days. The Opposite Party did not submit any reply to the showcause. The Competent Authority after going through the entire case, past service record and in view of unsatisfactory improvement in the current attendance record, passed an order No. DRD/DIS/4402 dated 15.05.2015 dismissing the Opposite Party from the services of the Company. The order of dismissal was communicated to the opposite party with a cheque bearing No. 552135 dated 15.5.2015 for Rs. 54,923.00 being the wages for one month as required under section 33(2)(b) of the Act and filed the Approval Application before this Tribunal.

3. On 18.10.2019, when the case was taken up for hearing in New Delhi Camp, the opposite party filed an application stating that she has been away from duty since June 2012 till date due to her ill health and other personal problems and she is not interested in resuming back to duty and, therefore, she does not want to contest the application. She has also stated that she has also received her one month's wages amounting to Rs.54,923.00 by cheque alongwith her dismissal order dated 15.5.2005. All the documents filed by the applicant has been verified and admitted by the opposite party on 18.10.2019.



4. The compliance of Section 33(2)(b) of the Act is there in view of the payment of one month notice pay which is not found to be short in any manner in the eye of law.

5. After giving a conscious consideration of the evidence on record , I allow the Approval Applications against the opposite party filed under Section 33(2)(b) of the Act. However, in all fairness to the opposite party workman I would like to clarify that this order shall not, in any manner preclude the workman from raising an industrial dispute to challenge the legality and propriety of her dismissal and in case any such industrial dispute is raised and adjudicated nothing stated or observed herein shall operate as resjudicata against the workman and nothing stated or observed herein shall in any way be read to the prejudice of the workman. With the aforesaid observation the application for approval is granted.

6. Thus, this approval application deserves to be allowed and is hereby allowed. Order of dismissal is hereby approved from the date of filing this Approval Application.



Sd/-
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

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