

Government of India  
Ministry of Labour & Employment,  
Central Government Industrial Tribunal-Cum-Labour Court-II, New Delhi.

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**INDUSTRIAL DISPUTE CASE NO. 194/2018**

**Date of Passing Award- 24.08.2022**

Between:

Ms. Ruchi Rathore,  
C/o Shri S.P Rathore,  
R/o B-6, Lane No. 7, Hari Marg, Civil Lines,  
Jaipur-302006.

Workman

Versus

The General Manager,  
Air India Ltd. (NR),  
113, Airline House,  
Gurudwara Rakabganj Road,  
New Delhi-110001.

Management

Appearances:-

None for the claimant  
(A/R)  
Shri V P Gaur  
(A/R)

For the claimant

For the Management

**A W A R D**

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Air India Ltd. (NR),113, Airline House, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-11012/13/2018 (IR(CM-I) dated 30/10/2018 to this tribunal for adjudication to the following effect.

“Whether the order of removal from service of the workman M/s Ruchi Rathore by the management of Air India Ltd. on the basis of disciplinary proceedings for misconduct of unauthorized absence of 304 days is justified? If not, to what relief the workman is entitled to?”

As per the claim statement the claimant has joined the service of Indian Airlines New Delhi as a Cabin Crew on 29.05.2005. On 08.09.2007 with the prior permission of the concerned authority she had proceeded on leave as her father-in law being a cancer patient was seriously ill. Her father in law died on 27.10.2007. During this period the claimant has also feel ill and by her letter dated 09.10.2007 she had duly informed the authorities. On 15.04.2008 she received a letter from the Deputy General Manager (IFS) wherein she was directed to appear before the Deputy General Manager (MED) on 29.04.2008 for her fitness assessment by a medical board. On

29.04.2004 she did not appear before the Medical Board and on 30.04.2008 intimated the Deputy General Manager IFS that she is required to remain on maternity leave till December 2008 and the medical certificate shall be submitted in due course. On 06.11.2008 she submitted the photocopies of the medical reports issued by the Military Hospital Pune and Care Hospital Hyderabad with regard to her pregnancy. But surprisingly on 07.07.2008 she received the chargesheet alleging unauthorized absence from 08.09.2007 to 07.07.2008. The claimant submitted a reply but the same was not accepted and the inquiry committee was constituted. The letter correspondence made by the claimant intimating that she is on maternity leave and in the meantime she has given birth to a girl child on 07.11.2008 and as such not in a position to resume duty and need to remain maternity leave till 30<sup>th</sup> June 2009 was not considered. Her request for transfer from Delhi to Hyderabad was not considered too. On the contrary the committee conducted the inquiry proceeding notwithstanding her absence and on 28.03.2010 submitted a report holding the charge against the claimant stands proved. Being served with the copy of the inquiry report the claimant disputed the same and submitted a reply. But the disciplinary authority i.e the executive Director Air India accepted the inquiry report and passed the order of removal from service with immediate effect. A showcause notice was served on the claimant but her reply was not considered. Being aggrieved she raised a dispute before the labour commissioner where steps taken for conciliation failed and the matter was referred to this tribunal for adjudication. The claimant in the claimant petition has prayed for the relief of reinstatement into service with full back wages and quashed the punishment imposed on her as harsh and disproportionate.

The management Air India filed written statement refuting the stand of the claimant. It is the stand of the management that the claimant was employed as a Cabin Crew w.e.f 05.08.2005 as a probationer and later on she was confirmed in service from 05.02.2006. She remained unauthorizedly absent from duty and all the communications made in this regard yield no result. She was asked to appear before the Medical Board. But the claimant did not obey the direction. A domestic inquiry for her unauthorized absence was initiated and the charge sheet was served. By pointing out the details of the period of absence the management has stated that between September 2007 to July 2008 i.e during 11 months period she remained absent from duty for 304 days. The claimant on service of notice participated in the domestic inquiry and made unnecessary correspondence to delay the inquiry. The inquiry was duly conducted during which she produced 5 documents. The inquiry officer on considering the evidence adduced found the charge proved and proposed the punishment to the disciplinary authority. The disciplinary authority called the claimant to showcause as to why the punishment proposed shall not be accepted. After considering the matter from all possible angles the disciplinary authority passed the order against the claimant dismissing her from service with immediate effect. Thus, the management has pleaded that the domestic inquiry being conducted fairly

the claimant has no cause of action and the claim petition is liable to be dismissed. on pleading of the parties the following issues are framed for adjudication.

### **ISSUES**

1. Whether the service of the claimant was illegally terminated.
2. Whether the domestic inquiry was conducted against the claimant fairly following the principles of natural justice.
3. Whether the punishment imposed on the claimant pursuant to the domestic inquiry commensurate the charge framed against her.
4. To what relief the claimant is entitled to.

On the adjourned date when the claimant was called upon to adduce evidence she did not turn up. Perusal of the record shows that since 18.11.2019 i.e much prior to the outbreak of COVID the claimant was not attending the proceeding. Thus by order dated 12<sup>th</sup> May 2022 the right of the claimant for adducing evidence was closed. When the management was called upon to adduce evidence, the Ld. A/R for the management expressed his intention not to adduce any evidence and advanced argument in the matter.

The law is well settled that the party challenging the fairness of the inquiry carries the burden of proving the unfairness of the inquiry. But in this case the claimant adduced no oral or documentary evidence at all. Thus, the pleadings made by her has not found support from any evidence and the pleading of the management has remained unrebutted. Hence, it is held that the claimant is not entitled to relief sought for and this no dispute award is accordingly passed. Hence, ordered.

### **ORDER**

The reference be and the same is answered against the claimant and the claimant petition filed by her is dismissed. The claimant is not held entitled to the relief sought for. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.  
CGIT-Cum-Labour Court.  
24<sup>th</sup> August, 2022.

Presiding Officer.  
CGIT-cum-Labour Court.  
24<sup>th</sup> August, 2022.

