

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

Mumbai

Present

JUSTICE RAVINDRA NATH KAKKAR

Presiding Officer

APPROVAL APPLICATION NO. CGIT-11 OF 2013

(Arising out of Ref.No. CGIT-1 of 2011

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Ms. Kirtika Gambhir : Opp. Party

Appearances:

For the Applicant : Mr.Lancy D'Souza,Adv.

For the Opposite Party : None present.

Mumbai, dated the 07<sup>th</sup> day of July, 2021.

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 Ms. Kirtika Gambhir

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



3. The Opposite Party was appointed as a Trainee Cabin Crew w.e.f. 29.11.2004 in Air India on probation in the Inflight Service Department at NITC and confirmed in service w.e.f 29.5.2005. The Opposite Party remained absent without permission from July 22, 2007 till December 24, 2008, for which disciplinary action had already been initiated against her. In continuation of this period, as the Opposite Party did not report for duty vide letter No. IS/ABS/31599-1 of October 10, 2011 she directed to forward her sick certificate duly endorsed by Air India Medical Services Department, regularize her leave with Leave Cell and contact Cabin Crew Administration. The Opposite party did not regularize her leave and also did not report for duty and chose to remain absent without permission for a period of 1625 days from 25.12.2008 till date. The above alleged act on the part of the Opposite party of not complying with the instructions given to her from time to time and remaining absent without permission for 1625 days from 25.12.2008 till date, constitute misconduct under the provisions of the Certified Standing Orders (Amended) applicable to the opposite party and 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 her written explanation to the aforesaid charges within 7 days of receipt of the letter No.IS/KG/305 dated June 17, 2013. The opposite party did not submit any reply to the aforesaid charge sheet. The Competent Authority, therefore decided to hold an enquiry into the said charges leveled against her and informed the opposite party accordingly vide letter dated 13.7.2013. The Enquiry committee commenced its proceedings on July 19, 2013 and concluded on August 01, 2013 spread over 03 sittings. The opposite did not attend the enquiry proceedings. The Enquiry Committee forwarded a copy of the ex-parte proceedings held on 01.08.2013, to the Opposite party and asked her to submit her final statement. The opposite party did not submit any reply. 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 vide letter dated August 22, 2013 and asked her to submit her 'SAY' on the findings of the Enquiry Committee. The opposite party did not submit her 'SAY'. 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 her to submit her written explanation within seven days of receipt of the letter dated September 05, 2013. The Opposite party did not submit any explanation to the above letter. In view of the above, the Competent Authority passed an order dated September 23, 2013 awarding the punishment of Removal from services on the Opposite Party. Vide letter NO. EMP-1/1/31599 dated



04.10.2013, cheque no. 948450 dated 04.10.2013 for Rs. 25,929/- being the wages for one month was also sent to her by speed post.

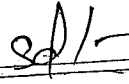
4. Perusal of the roznama dated 23.03.2017, reveals that affidavit of service of notice has been filed. The notice has been published in two newspapers. Copies of the same have been filed. In spite of that none has appeared on behalf of the Workman. Hence, this Tribunal directed that the proceedings be held ex parte.
5. Mr. Lancy D'Souza, learned counsel for the applicant has filed the affidavit of Y.B.Kurme in support of the record and proceeding of the domestic enquiry.
6. Heard Mr.Lancy D'Souza, learned counsel for the Management.
7. He has argued that at every stage all the efforts were made by the Management to serve notice to the workman to furnish her explanation for absence and also to take part in the enquiry but she has not furnished any explanation nor replied to the letters sent to her.
8. 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.
9. 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.


10. Thus, this approval application deserves to be allowed and is hereby allowed. Order of Removal from service is hereby approved from the date of filing this Approval Application subject to clearance of all the legal dues to the opposite party by the management.



  
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

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Secretary to the Court  
Central Government Industrial  
Tribunal-cum-Labour Court No. 1