

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

MUMBAI

Present in Lok Adalat

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. NTB-91 OF 2017

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Ms. Lily Dev Burman : Opp. Party

Appearances:

For the Applicant : Mrs. Pooja Kulkarni, Adv.

For the Opposite Party : Absent

State : Maharashtra

Mumbai, dated the 20th 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 Ms.Lily Dev Burman.

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



3. The Opposite Party was employed in Air India as a Chief Cabin Crew at the Operations Department, NSCBI Airport, Kolkata. The Opposite party reported sick on 25th March, 2008 over telephone. Several letters were sent to her residence on advising her to report to Medical Officer, NACIL, Kolkata. In spite of it she did not comply with the instructions contained therein and unauthorisedly absent for 303 days till date i.e. 21.09.2009. Thereafter several communications were made but the opposite party did not comply with the directions. The opposite party has remained without permission intermittently for 1070 days from 29.4.2009 till 06.1.2010. The above alleged act on the part of the Opposite party constitute misconduct under the following clauses of the Standing Orders (Regulations) applicable to her. The opposite party was charged and she received the chargesheet on 28.1.2010 but did not submit her reply even after elapsement of considerable period of time. The Competent Authority, therefore, decided to hold an enquiry into the charges leveled against her. In spite of receiving the communications regarding the enquiry she did not attend the enquiry. Accordingly the Enquiry Officer proceeded ex parte and concluded it on 20.11.2009. The Opposite Party neither participated in the enquiry proceedings nor informed her inability to attend the same. The Enquiry Committee forwarded a copy of the ex parte proceedings held on 20.11.2009 and asked her to submit her final submission within 20 days from the receipt of the letter statement but the opposite party did not make any final statement. The Enquiry Committee submitted its report to the Competent Authority. The Competent Authority forwarded a copy of the Enquiry Report to the Opposite Party and asked her to submit her



comments on the findings of the Enquiry Committee. 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" and asked her to submit her written explanation. The opposite party did not make any reply. In view of the above, Competent Authority awarded the punishment of "Removal from Service" with immediate effect on the Opposite Party which was communicated to the opposite party bearing a cheque No. 961144 dated 22.07.2010 for Rs. 37,100/- being the wages for one month as required under section 33(2)(b) of the Act. and filed the Approval Application before this Tribunal.

4. Notice of this case was sent to the opposite party for hearing on 13.07.2019 at Kolkata camp. The opposite party was absent but Mrs. Pooja Kulkarni, Advocate for the applicant filed an application received from the opponent praying that all her pending dues be settled by the applicant and same may be deposited in her bank account and she is not in a position to contest this case (Ex-5). On 23.09.2019, when the matter was taken up in Kolkata Camp Court, Mrs. Pooja Kulkarni, Advocate for the applicant submitted that all the dues have already been paid to the opposite party except provident fund dues which may take some time. On 07.01.2020, Mrs. Pooja Kulkarni, Advocate for the applicant was directed to submit the status report regarding payment made to the opposite party and the case was fixed on 20.1.2020 at Lok Adalat.



5. Today, i.e. on 20.1.2010, when the matter was taken up in Lok Adalat, Mrs. Pooja Kulkarni filed a written submission made by the opponent declaring that she has received all her legal dues including Gratuity and Provident Fund and shall not raise any further claim monetary or otherwise in future against the Applicant including that of reinstatement, continuity of service and/or full back wages. She also prayed that this Hon'ble Tribunal may allow the Approval Application.
6. From a perusal of the averment made in the approval application which has not been contested by the opposite party rather the opposite party has declared that she has no objection for allowing the approval application. There is nothing on record to show that the punishment of removal from service has been awarded to the opposite party in order to victimize the opposite party or by way of Unfair Labour Practice nor the same can be termed to be disproportionate. All the legal dues has been received by the opponent as per the written submission(Ex-6) made by the opposite party.
7. I have no option but to allow the approval application and it is hereby approved from the date of filing this Approval Application.



Sd/-
(JUSTICE RAVINDRA-NATH KAKKAR)
PRESIDING OFFICER

[Signature]
Secretary to the Court
Central Government Industrial
Tribunal-cum-Labour Court No. 1
Mumbai