

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

MUMBAI

Present

JUSTICE RAVINDRA NATH KAKKAR  
Presiding Officer

APPROVAL APPLICATION NO. CGIT-14 OF 2013  
(Arising out of Ref.No.cgit- 1 of 2011)

Parties: Air India Ltd : Applicant

Vs.

MS.L.Malwawalla : Opp. Party

Appearances:

For the Applicant : Mrs. Deepika Agrawal, Adv.

For the Opposite Party : Absent.

State : Maharashtra

Mumbai, dated the 12<sup>th</sup> day of January 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. L.Malwawalla.

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 Trainee Cabin Crew on 13.04.2004 in the Applicant Company. She was appointed as Air Hostess on probationary basis with effect from 13.10.2004 in the Inflight Service Dept. and was confirmed in service we.f. 01.04.2005. She remained absent from 25.2.2011 till date. The Opposite party was informed to forward her sick certificate duly endorsed by Air India Medical Services Department to the Leave Cell under intimation to the Cabin Crew Administration. The opposite party failed to comply with the instructions. Several letters were sent to her to follow the instructions but the opposite party did not comply with the instructions. The above alleged act on the party of the Opposite party of remaining absent without permission from March 04, 2006 till date constituted misconduct under the provisions of Certified Standing Orders (Amended to her and was charged with the following:

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

Clause NMo. 19(2)(vi) Absence without leave which is not regularised 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 required to submit her written explanation on the aforesaid charges within 7 days of receipt of letter No. IS/LM/217 dt.May 06, 2013. The opposite party did not submit any reply to the aforesaid chargesheet. The Competent Authority, therefore, decided to hold an Enquiry to enquire into the aforesaid charges levelled against her and the same was communicated to her vide Order No. IS/244 dated June 12.2013. The Enquiry Committee commenced its proceedings on July 19,2013 and concluded on August 01, 2013 spread



over 03 sittings. The Opposite Party did not participate in the Enquiry Proceedings. As the Opposite Party did not attend a single sitting, on August 01, 2013, the Enquiry Committee decided to proceed with the enquiry ex-parte. The Enquiry Committee forwarded a copy of the ex-parte proceedings and asked the Opposite Party to submit her "Final Statement". The Opposite Party did not submit her reply. The report of the Enquiry Officer was sent to the Opposite Party to which the Opposite Party did not submit any reply. The Competent Authority after going through the findings concurred with the with the findings of the Enquiry Officer and accordingly proposed show cause for punishment of "Removal from Services" and the opposite party was asked to showcause within 07 days. The Opposite Party did not submit any reply. The Competent Authority after going through the entire case and considering the gravity of the misconduct passed an order No. IS/CON-9/LM/520 September 23, 2013 awarding the punishment of "Removal from service" The order of "Removal from Services" was communicated to the opposite party with a cheque bearing No. 948454 dated 04.10.2013 for Rs. 28,253/- 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. 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.

4. 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.

5. 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.



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TRUE COPY

*sd/-*  
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

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