

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

Mumbai

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. CGIT-14 OF 2011
(Arising out of Ref. CGIT-1/ 52 of 2007

Parties: Air India Ltd., Delhi : Applicant

Vs.

Mrs. R.KALIAMOORTHY : Opp. Party

Appearances:

For the Applicant : Mrs. Deepika Agrawal, Adv.

For the Opposite Party : Absent.

Mumbai, dated the 18th day of December, 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 Dismissal from service passed by the Air India Ltd against Mr. R.Kaliamoorthy.

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



3. The Opposite Party was joined Air India Traffic/Cargo Asstt. In the Commercial Department on February 13, 1984 and confirmed w.e.f. August 01, 1984. He was promoted as Officer-Customer Services w.e.f. July 01, 1998. The opposite party was rostered for II shift (1400 hrs - 2230 hrs) on 31st March 2004 and reported for duty at 1400 hrs. The opposite party was required to continue on overtime in the III shift and allocated Counter duties for AI flight 641/ETA/ETD 0030/0050 hrs/01 April 2004. At about 2130 hrs/31.3.2004 one Mr.Sudhir singh, Mr. Sivaraman and Mr.Gunaseelan entered the airport for their travel to MAA/SIN/IC555 and SIN/LAX/Cathay Pacific. The opposite party had conveyed the message to Mr.Sudhir Singh through Mr.Patric to go to Counter No.15 along with Mr.Sivaraman and check in flight IC555/MAAASIN. As the said persons also had AI tickets in the name of Mr.P.Senthil and Mr.Selvaraj, the opposite party after collecting the boarding passes and passports, instructed them to go to Counter No.5 of AI and obtain boarding passes for AI641 and thereafter go to the first floor of the airport and wait. Subsequently it was revealed that the said three passengers obtained two sets of boarding cards viz. one on AI 641/MAA/BOM and the other set on IC from MAA/SIN and used the boarding cards to pass through the Immigration and Customs. The above passengers had passed through immigration and customs by using the Opposite Party's position as in-charge of service control, the Opposite Party destroyed the flight coupon of Mr.Selvaraj of AI 641 so the his illegal action could not be traced out. The opposite party also cancelled the boarding NO. 59 issued in the name of Mr.Narasimhan Veeraswamy Selvaraj for flight AI 641 to Mumbai. The opposite party has misused the sign in code of Mr.G.Parthasarathy and deleted the name of Mr.Narasimhan Veerasamy Selvaraj, whose boarding card was destroyed by Mr.Sudhir



Singh. Further investigation revealed that the opposite party was a party to this conspiracy in helping out the three illegal passengers with forged passports and other documents to allow the law to be violated. Arising out of the above, investigations were carried out initially by the immigration authorities followed by the CBI and the opposite party was arrested. In view of the opposite party's arrest he was placed under suspension vide letter No. MAP/44648/1300 dated 16th April 2004. The above act on the party of the opposite party amounted to misconduct under the provisions of the Certified Standing Orders (Central) and he was therefore, charged with the following:

19(1)(a) Every workman shall at all time maintain absolute integrity and devotion to duty and conduct himself in a manner conducive to the best interests, credit and prestige of the Company.

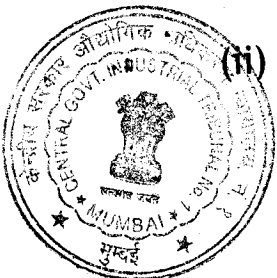
(b) Every workman holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all workmen for the time being under his control and authority.

19(2)(iv) Fraud in connection with the property of the Company.

(viii) Breach of any rules, regulations or orders applicable to the Establishment.

(i) Willful insubordination or disobedience, whether or not in combination with others, of any lawful and reasonable order of his superior.

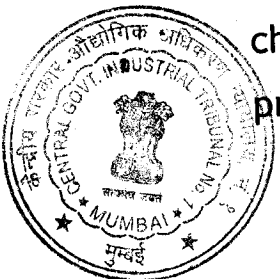
(ii) Absence without leave which is not regularised for want of sufficient grounds or proper or satisfactory explanations,



or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanations; or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanations; or absence from the workman's appointed place of work without permission or sufficient cause.

- (iii) Breach of any law, rules regulations or orders applicable to the establishment.

The above charge sheet was sent to the opposite party vide letter No. MAA/ST-44648/287 dated 16.11.2006 and called upon him to submit his explanation within 72 hours. The opposite party submitted his explanation dated 27.11.2006, which was not found to be satisfactory. The Competent Authority, therefore, decided to constitute an Enquiry Committee to enquiry about the charges levelled against him. The Enquiry Committee held its proceedings on 03rd April 2008 and concluded on 13th July 2010 spread over 14 sittings. The Enquiry committee submitted its report to the Competent Authority. The Competent Authority forwarded a copy of the Enquiry Committee's Report to the opposite party and called upon him to submit his 'Say' within 07 days of receipt of the letter. The Opposite party submitted his say vide letter dated 27th October 2010 along with a copy of the order passed by the Chief Judicial Magistrate. The Competent authority perused the "say" of the opposite party and concluded that the criminal proceedings and its findings do not have any bearing on the departmental enquiry as the charges levelled against the opposite party in the Departmental enquiry are entirely different from the charges that were made against the opposite party in the criminal proceedings. The Competent Authority proposed to award the



punishment of "Dismissal from the services of the Company with retirement benefits in part (i.e. with terminal benefits of Gratuity and his contribution to PF only) vide letter No. MAA:GM(S&M)/ADMN/DISC/44648/654 dated April 5, 2011 the opposite party was called upon to submit his say on the proposed punishment within ten days. The opposite party submitted his reply dated April 14, 2011 and April 18, 2011. The competent authority came to the conclusion that there was no extenuating and/or mitigating circumstances that warrant reconsideration of the proposed punishment and awarded the punishment of "Dismissal with retirement benefits as part" as provided under Clause 20(f) (Major Penalties) of the Certified Standing Orders. The said order of punishment was communicated to the opposite party with a cheque bearing No. 931995 dated 19.9.2011 for Rs. 33,365.45 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. 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