

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

Mumbai

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. CGIT-17 OF 2013
(Arising out of Ref.No. CGIT-1 of 2011)

Parties: Air India Ltd., Delhi : Applicant
Vs.
Ms. Jaituni Desai : Opp. Party

Appearances:

For the Applicant : Mrs. Deepika Agrawal, Adv.
For the Opposite Party : None present.

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 Ms. Jaituni Desai.
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 Cabin Crew w.e.f. 22.01.2007 in Air India on probation in the Inflight Service Department at NITC and confirmed in service w.e.f 01.08.2007. She has not been reporting for duties from December 14, 2011. Vide letter dated 25.5.2012, the opposite party was 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. Vide letter dated September 18, 2012 she was again directed by the management to comply with the previous letters. Again on 10.10.2012, a letter was sent to her to comply with the directions as stated in the previous letters. In spite of the same the opposite party did not report for duties 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 545 days from December 14, 2011 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; and

Clause no. 19(2)(viii): Breach of any law, rules, regulations or orders applicable to the establishment.

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 July 31, 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 31.07.2013 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 23, 2013. 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 04, 2013. The envelope containing the said letter has been returned by the postal authorities with the remarks " Left". The Competent Authority passed an order dated September 25, 2013 awarding the punishment of Removal from services. Vide letter NO. EMP-1/1/33421 dated 08.10.2013, cheque no. 948736 dated 08.10.2013 for Rs. 27,589/- being the wages for one month was sent to her by speed post.

4. On 09.02.2017, this Tribunal noted the service of notice filed alongwith the publication in Newspapers Times of India, Mumbai Edition and Loksatta, Mumbai, Marathi Edition. These publications were made on



10.10.2016. In spite of that none was present on behalf of the opposite party. Hence the Tribunal proceeded ex parte in this case.

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