

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1
MUMBAI

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. CGIT-1/10 OF 2013

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Ms. Pragya Rathore : Opp. Party

Appearances:

For the Applicant : Mrs. Deepika Agrawal

For the Opposite Party : Absent

State : Maharashtra

Mumbai, dated the 22nd 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. Pragya Rathore.



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

3. The Opposite Party joined Air India as a Trainee Cabin Crew w.e.f. 28.01.2004 and was appointed as a Cabin Crew on probation w.e.f. 28.07.2004 in the Inflight Service Dept. at NIPTC and was confirmed in service w.e.f. 01.02.2005. Vide letter dated December 14, 2010, the opposite party was informed that she had neither reported for duty nor regularized her leave with effect from July 05, 2010. She was also directed to forward her Sick Certificate duly endorsed by Air India Medical Services Department, to regularize her leave with the Leave Cell and contact the Cabin Crew Administration. The said letter was returned back by the postal authorities stating 'House Locked' and the letter sent by courier to her address in Mumbai was returned back by the courier agency stating 'Party Shifted'. Vide letter No. IS/PR/31490 dated May 23, 2011, 25.05.2012 and vide letter No. IS/ABS/31490-3 dated November 01, 2002 the opposite party was directed to report for duties immediately on receipt of the said letter, failing which disciplinary action would be initiated against her. However, the said letter was returned back by the postal authorities stating 'Left'. The Opposite Party has thus remained absent without permission for a total period of 1033 days from July 05, 2010 and continued to remain absent till date. The above alleged act on the part of the Opposite party constitute misconduct under the provisions of the Certified Standing Orders (Amended) applicable to her and the Opposite Party 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 was called upon to submit her written explanation to the aforesaid charges within 7 days of receipt of the letter No. IS/PR/200 dated May 02, 2013 but the opposite party did not submit any written explanation. The Competent Authority, therefore, decided to hold an enquiry into the charges leveled against her and informed the Opposite Party vide letter No. IS/PR/248 dated 12.06.2013. The Competent Authority forwarded to the opposite party a copy of Office Order No. IS/CON-9/PR/249 dated July 12, 2013 constituting Enquiry committee. The aforesaid office order constituting the Enquiry Committee was superseded vide Office Order No. IS/CON-9/PR/402 dated July 17, 2013 which was communicated to the opposite party. The Enquiry committee commenced its proceedings on July 19, 2013 and concluded on August 02, 2013 spread over 03 sittings. The Opposite Party neither participated in the enquiry proceedings nor informed his inability to attend the same. The Enquiry Committee forwarded a copy of the ex parte proceedings held on 02.08.2013 and asked her to submit her final statement vide letter No. IS/ENQ/PR/04 dated August 08, 2013 but the opposite party did not made any final statement. 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 and asked



her to submit her SAY on the findings of the Enquiry Committee within 7 days of receipt of the same. 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: as per Clause 20 (e) of the Certified Standing Orders (Amended) applicable to the Opposite Party and asked her to submit his written explanation within seven days of the receipt of letter No. IS/PR/481 dated September 06, 2013. The opposite party did not file any say even though the said letter was delivered to her. In view of the above, Competent Authority awarded the punishment of "Removal from Service" on the Opposite Party as per Clause No. 20 Major Penalties (e) of Certified Standing Orders (Amended) applicable to her. The order of Removal from Service was communicated to the opposite party with a cheque bearing No. 948452 dated 04.04.2013 for Rs. 27,921.00 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. In the order dated 11.9.2014, it was noted that the notice sent to the opposite party at her Gwalior address had been served and acknowledgement card received back. Despite service of notice on the opposite party, the opposite party has not put in appearance in the present matter and, therefore, by order dated 03.12.2015, this Tribunal directed that the proceedings be held ex parte.



5. Mrs. Deepika Agrawal, learned counsel for the applicant has filed the affidavit of Y.B.Kurane in support of the record and proceeding of the domestic enquiry.

5. Heard Mrs. Deepika Agrawal, learned counsel for the Management and perused the approval application, the enquiry proceedings and consequential orders passed. The opp. Party remained absent for period of 1270 days from 29.04.2009. Several letters were sent to the opp. Party to join duty but she did not reply to any of the letters. She was charged under the provisions of the Certified Standing orders applicable to her. An enquiry committee was constituted to enquire into the charges and she was communicated about the constitution of the enquiry committee. The opp. Party did not attend the enquiry which was spread over 03 sittings. The enquiry report was sent to her for her 'Say' but she did not give any reply. The Competent Authority proposed to award the punishment of 'Removal from Service' and asked her to file her "Say'. The opp. Party did not submit her 'Say'. The order of Removal from Service was communicated to the opposite party with a cheque bearing No. 948452 dated 04.04.2013 for Rs. 27,921.00 being the wages for one month as required under section 33(2)(b) of the Act and filed the Approval Application before this Tribunal.

6. In the circumstance of the case, I find that the enquiry held was legal, fair and proper. The charge is prima facie made out. One month's wages were duly tendered. There is nothing to suggest victimization. Application for approval was made promptly.



7. I accordingly grant this approval ex parte. However, in all fairness to the workman, I would clarify that this order shall not preclude the workman from raising an industrial dispute challenging the legality, correctness and propriety of the punishment imposed upon him and in case such a dispute is raised and adjudicated eventually, nothing contained herein shall be read to the prejudice of the workman. With the aforesaid observations, the application is granted ex parte and approval is accorded to the action taken by the management in removing the Opposite Party workman from service.



Sd/-
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

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