

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL

CAMP: KOLKATA

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding Officer

APPROVAL APPLICATION NO. NTB-25 OF 2017
(Arising out of Ref.NTB-1 of 1990)

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Mr. Janardan Roy : Opp. Party

Appearances:

For the Applicant : Mrs. Pooja Kulkarni, Adv.

For the Opposite Party : Opp. Party present in person.

State : Kolkata

Kolkata, dated the 26th day of February, 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 Dismissal from service passed by the Air India Ltd against Mr. Janardan Roy.
2. The facts necessary for the disposal of the present approval application may be summed up as under:
3. The Opposite Party was employed as Driver in the Applicant company Operations. The opposite party was issued charge sheet no. CPSP:ST:5698 dated 12.12.2008 him for unauthorisedly absenting from duty for 747 days during the period from 02.09.2005 to



11.10.2007. Further absenting himself from duties without prior permission/proper sanction from Competent authority for 428 days w.e.f. 12.10.2007 till 12.12.2008 thereby unauthorisedly remained absent for a total period of 1175 days on 3 occasions during the period from 02.09.2005 to 12.12.2008. which would amount to misconduct within the meaning of the Standing Orders 28(13) and 28(15) of the Standing Orders for Factory workers applicable to him.

Standing Order 28(13) : Absence without leave or overstaying sanctioned leave, without sufficient grounds or proper or satisfactory explanation".

Standing Order 28(15) : Habitual breach of any Standing Order or any Standing Order or any law or rules applicable to the establishment".

4. The Opposite Party was asked to submit a written statement on aforesaid chargesheet within 7 days from the receipt of the same but the opposite party chose not to respond to the same. Accordingly an Enquiry Committee was constituted to enquire into the charges leveled against the Opposite Party. The enquiry was held on 30.05.2009, 20.06.2009 and 10.07.2009. In spite of receipt of the letter the workman did not participate in the enquiry and therefore, the enquiry was conducted ex parte. The proceedings of the enquiry held ex parte on 10.07.2009 was sent to the Opposite Party advising him to submit his written Final submission within 10 days from receipt of the same. The Opposite party did not submit his final submission. The Enquiry Officer submitted his report dated 11.08.2009 to Sr. Manager (Ground support) wherein he had held that after re-evaluation of the leave records of the Opposite Party, his actual number of unauthorized days of absence stood at 1129 days on 04 occasions and thus, the charge leveled against the Opposite Party stood established. The Sr. Manager forwarded a copy of the report of the Enquiry Officer to the Opposite Party for his comments. The Opposite Party did not submit any comments. The Dy. General Manager (Ground support) concurred with the findings of the Enquiry Officer and issued final show cause notice proposing the punishment of 'Dismissal from the services of the Company. The Opposite party despite receiving the Final show cause Notice did not reply to the same. The Competent Authority having considered the gravity of the misconduct committed by the opposite party which has been duly proved in the enquiry as well as the past unsatisfactory service record of the Opposite Party, came to the conclusion that the charges proved against the Opposite Party merited the punishment of Dismissal from Service. Accordingly, the Competent Authority passed an order No. CPSP:ST:512 dated 16/02/2010 dismissing the Opposite Party from the services of the Applicant Company with immediate effect. Along with the



said order dated 16.02.2010 a cheque No. 956536 dated 16.02.2010 for Rs. 17,890/- being the wages for one month as required under section 33(2)(b) of the Act and filed the Approval Application before this Tribunal.

5. On 26.02.2021, when the case was taken up for hearing in Kolkata Camp, the opposite party filed an application stating that an amount of Rs. 3,76,489/- (Rupees three Lakhs seventy six thousand four hundred eighty nine only) pertaining to Provident Fund is due from the company. He further stated that the company has assured him to pay him within two months and he is satisfied with the statement and assurance given to him by the Company. Mr. Debasish Dutta, Assistant General Manager-Personnel filed an affidavit to the effect that the Provident Fund dues an amount of Rs. 3,76,489/- has been transferred to the reserve fund as fresh bank details was not provided by the Opposite Party. He further stated that the payment of his pending dues will be sent to Delhi for processing and will be paid to him.

6. 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.

7. After giving a conscious consideration of the evidence on record, the statement made by the Opposite Party and the affidavit filed by the Applicant company regarding the payment of legal dues to the Opposite Party, I allow the Approval Applications against the opposite party filed under Section 33(2)(b) of the Act. However, this shall not preclude the workman from raising an industrial dispute challenging the legality and propriety of action of the management taken against him, in respect of which this approval application has been made.

8. Thus, this approval application deserves to be allowed and is hereby allowed. Order of Dismissal from service is hereby approved from the date of filing this Approval Application.



(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

सही प्रतिलिपि
T... COPY
Secretary to the Court
National Industrial Tribunal
Mumbai.