

BEFORE THE NATIONAL INDUSTRIAL TRIBUNALCAMP: KOLKATA

Present

JUSTICE RAVINDRA NATH KAKKAR  
Presiding OfficerAPPROVAL APPLICATION NO. NTB-117 OF 2017  
(Arising out of Ref.No.NTB-1 of 1990)

Parties: Air India Ltd., Mumbai : Applicant  
Vs.  
Mr. R.P.Kurmi : Opp. Party

Appearances:

For the Applicant : Mrs. Pooja Kulkarni, Adv.  
For the Opposite Party : Opp. Party present in person.  
State : Kolkata

Kolkata, dated the 25<sup>th</sup> 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. R.P.Kurmi.
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 Asstt.-II Workshop, in Air India Air Transport Services Ltd . The opposite party was issued charge sheet no. CPSP:ST:22/1211



dated 01.7.2014 for unauthorisedly absenting from duty for 82 days during the period from 01.04.2013 till 31.03.2014 which would amount to misconduct and constitute breach of the Standing Orders for Factory workers applicable to him.

CLAUSE 28 (13) : Absence without leave or overstaying sanctioned leave without sufficient grounds or proper or satisfactory explanation.

CLAUSE 28 (15) : Habitual breach of 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. Not receiving the reply for a considerable period of time, an Enquiry Committee was appointed to enquire into the charges leveled against the Opposite Party. The enquiry was held on 09/02/2015 and the opposite party participated. The enquiry proceedings concluded on the same day. The Enquiry Officer submitted his report dated 3.3.2015 to Sr.Asstt. General Manager (GS), AIATSL NTA Dum Dum holding that the charges levelled against the Opposite Party under Clauses 28(13). and 28(15) of the standing Order for Factory Workers as applicable to him stood established. The Sr. Asstt.General Manager forwarded a copy of the Enquiry report to the opp. Party for his comments. Despite receiving the enquiry report, the Opp. Party choose not to respond to the same. A final show cause notice proposing the punishment of dismissal from the services of the Company was issued to him by General Manager-GH(Co-ord) Eastern Region, Kolkata dated 27.10.2015. The opp. Party replied to the aforesaid final show cause notice. The Competent Authority having considered the gravity of the misconduct committed by the Opposite Party which has been duly proved in the enquiry, and his past service record came to the conclusion that the misconduct committed by the opposite party merited the punishment of his dismissal from service of the Company. Accordingly, the Competent Authority passed an order No. CGS:GM-GH:23:509 dated 04/03/2016 dismissing the Opposite Party from the services of the Applicant Company with immediate effect. Alongwith the said order dated 04.03.2016, a cheque No.



202984 dated 04.03.2016 for Rs. 27,060/- being the wages for one month as required under section 33(2)(b) of the Act has also been sent to the opposite party and filed the Approval Application before this Tribunal.

5. On 25.2.2021, when the case was taken up for hearing in Kolkata Camp, the opposite party filed an application that he has received all his legal dues i.e. Provident Fund and Gratuity and no other legal dues is pending. Mr. Debasish Dutta, Assistant General Manager-Personnel filed an affidavit to the effect that no legal dues is pending in respect of the opposite party.


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 that no legal dues is pending to the Opposite Party, I allow the Approval Application 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 her, 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.



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TRUE COPY

  
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER

  
Secretary to the Court  
National Industrial Tribunal  
Mumbai.