

BEFORE THE NATIONAL INDUSTRIAL TRIBUNALCAMP: KOLKATA

Present

JUSTICE RAVINDRA NATH KAKKAR
Presiding OfficerAPPROVAL APPLICATION NO. NTB-152 OF 2017
(Arising out of Reference NTB-1 of 1990)

Parties: Air India Ltd., Mumbai : Applicant

Vs.

Mr.Sanjay Soy : 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.Sanjay Soy.
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 Officer-Flight Operations. The opposite party was issued charge sheet no. CAL/OPS/102/416 dated 16/26.08.2016 charging him for unauthorisedly absenting from duty for 100 days spread over 11 occasions during the period from 01/10/2015 to 31/03/2016 which, if proved, would constitute breach of Standing Order-1 and misconduct within



the meaning of the following clauses of the Standing Order (regulations concerning discipline and Appeals as applicable which are given below.

- Standing Order 1 : Every employee of the Company shall at all times maintain absolute integrity and devotion to duty and conduct himself in a manner conducive to the best interests, credit and prestige of the Company.
- CLAUSE 16 : Without prejudice to the generality of the term "misconduct"....."habitual absenteeism.
- CLAUSE 16 (6) : Absence without leave for more than 8 consecutive days or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanation within a week from the date of termination of leave sanctioned.
- CLAUSE 16(8) : Breach of any standing order or any law or Rules applicable to the establishment.
- CLAUSE 16(12) : Neglect of work or negligence or gross of a serious nature.

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 28.10.2016 and concluded on 03/11/2016 and the Opposite Party participated in the enquiry proceedings on both the dates. The Enquiry Officer submitted his report dated 02/12/2016 to General Manager (ops) holding that the charges leveled against the Opposite Party under Standing Order 1, Clauses 16, 16(6), 16(8) and 16(12) of the Regulations concerning Discipline and Appeals stood established. The General Manager forwarded a copy of the report of the Enquiry Officer to the Opposite Party for his comments. The Opposite Party submitted his comments which was forwarded to the Regional Director – East, being the Competent authority for a decision. Not finding the comments of the Opposite party to be satisfactory and in view of the seriousness of the offence committed by the Opp. Party, the Competent authority was of the opinion that notwithstanding the past service record of the Opposite Party which is unsatisfactory proposed to award the punishment of "Removal from service of the Company". The decision of the Competent Authority was informed to the Opposite



Party and the Opposite Party did not respond inspite of the elapement of a considerable period of time. Accordingly, the Competent Authority passed an order No. EDER/DISC/1431 dated 19/7/2017 removing the Opposite Party from the services of the Applicant Company with immediate effect. Alongwith the said order a cheque No. 623829 dated 19.7.2017 for Rs.61,391.19 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 25.2.2021, when the case was taken up for hearing In Kolkata Camp, the opposite party filed an application stating that an amount of Rs.6,00,372/- (Rupees Six Lakhs three hundred and seventy two only) is lying with the company and he has been informed by Mr.Debasish Dutta, Assistant General Manager-Personnel of the applicant company that the same will be cleared within a month and requested this Tribunal to close this case.

6. Mr. Debasish Dutta, Assistant General Manager-Personnel has filed an affidavit stating that the Gratuity amount of Rs.6,00,372/- (Rupees Six Lakh Three hundred Seventy Two only) is pending and payable to the Opponent. He further stated that the same would be processed and sent to the bank account and receipt of bank details from the Opponent.

7. 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.

8. After giving a conscious consideration of the evidence on record, the statement made by the Opposite Party and the affidavit filed by the Applicant 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 her, in respect of which this approval application has been made.

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



सही प्रतिलिपि
TRUE COPY

N. K. Kulkarni
Secretary to the Court
National Industrial Tribunal
Mumbai.

Ravindra Nath Kakkar
(JUSTICE RAVINDRA NATH KAKKAR)

PRESIDING OFFICER