

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of judgment: 06.05.2009

+ W.P.(C) 1370/2006, C.M. Nos. 1194/2006 & 7229/2007

INDIAN AIRCRAFT TECHNICIANS ASSN. (IATA) Petitioner
 Through : Mr. Ashish Wad and Mr. Satya Vikram, Advocates.

versus

THE MGMT. OF INDIAN AIRLINES LTD. & ORS. Respondents
 Through : Mr. A. Chakraborty and Ms. Neha Gaur, Advocates, for
 Resp. No.1.
 Mr. M.L. Lahoty and Mr. P.K. Sharma, Advocates, for Resp. No.2.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

1. Whether the Reporters of local papers may be
 Allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in
 the Digest?

S. RAVINDRA BHAT, J (OPEN COURT)

1. The writ petitioners question an award dated 29.12.2005 of the arbitrator under Section 10A of the Industrial Disputes Act, 1947.
2. The writ petitioners are a registered trade union representing interests of the Aircraft Technicians, Foremen and Inspectors of the erstwhile Indian Airlines Limited – during the pendency of proceedings, it got amalgamated with Air India and consequently restructured, as part of the National Aviation Company of India Limited.
3. Briefly the facts are that the petitioner Union relies upon an award made by Late Justice

G.D. Khosla in 1966 as Chairman of the National Industrial Tribunal, to the effect that as far as possible, parity was to be achieved between workmen of Air India and Indian Airlines. The petitioner Union refers to a document of 23.02.1998 recommending change in existing designation of technical and non-technical employees, to bring about improvement in their attitude and functioning. It is claimed that pursuant to an opinion by Justice B.B. Chavan (Retd.), of Bombay High Court, the Air India redesignated its “Technicians” category of workmen as “Service Engineers” with effect from 01.04.1999. The petitioner Union, therefore, demanded similar restructuring of designations in the Indian Airlines. Apparently, discussions between Management took place, and the other Unions. On 21.11.2004, an understanding was arrived at where it was agreed that the designations sought for were to be granted. The petitioners rely upon certain other consequential letters issued by the Indian Airlines, said to effectuate the agreement. It is claimed that despite protests, the Indian Airlines, which was unwilling to honor its commitment, got the matter referred in arbitration under Section 10A of Industrial Disputes Act, 1947, on 18.03.2005. The petitioner Union as well as Union of Engineering staff, represented by the second respondent, along with the Management of the erstwhile Indian Airlines Limited participated in the reference which culminated in the award impugned in the present case.

4. The petitioner who challenges the award, contends that the basic parity between non-engineering technical staff of Indian Airlines and Air India is undeniable in the sense that both categories are required to possess similar qualifications; they have identical duties and functions and that there is also parity in pay-scales. It is submitted that under these circumstances, the arbitrator fell into an error in upholding the disparity between same set of employees though working in two different organizations.

5. Learned counsel contended that after the present writ proceeding was filed, a new development whereby the Indian Airlines and Air India merged which resulted in a substantial change has occurred which this Court should take cognizance of while granting relief, sought for. He submitted that this amounts to an additional ground why the impugned order should be set aside.

6. The writ petition was opposed by the respondents, who relied upon the findings in the award, contending that the arguments regarding parity in eligibility criteria is misplaced. It is contended that whatever be the position in Air India, the change made there in respect of the technical staff with effect from 01.04.1999 was based upon an opinion given to the organization which cannot be the basis for claiming parity within the Indian Airlines, an entirely different organization driven by its own objectives and containing its hierarchical structures, in regard to management.

7. The Court has carefully considered the submissions of parties. As to the fact that the Air India and Indian Airlines were at the relevant time distinct entities, there cannot be any manner of doubt. In such circumstances, the claim for parity in conditions – even in designation has to be examined taking into consideration the overall policy perspective of the respective managements. No doubt, the Air India was directed to accept the opinion of a retired Judge, Justice B.B. Chavan, without the assistance of the engineering staff; a copy of that opinion has been placed on record. The opinion is premised upon the fact that the possession of license is the basis of distinction and that both categories originated from the engineering discipline and a non-licensed employee can aspire to become engineer subject to passing requisite examinations. As far as distinctive marks discerned by prefixing or suffixing terms are concerned, parity was acceptable. The other reason which persuaded Air India, expressed in the opinion, was the overall objective

of promoting efficiency by redesignation of what is perceived as a better job description.

8. The impugned award has considered the relevant factors. In paras 35 and 36, the arbitrator considered decisions of the Supreme Court, particularly, in the context of similar claim for parity of two otherwise distinct classes of employees. In paras 41-43 of the award, the arbitrator discussed the existing rules. Paras 44 and 45 which are crucial for the present case read as follows:

“44. Mr. M.L. Lahoty, learned counsel for AIAEA has submitted an advertisement issued by Indian Airlines on 26.07.2005 for the posts of Senior Aircraft Maintenance Engineer Trainee (Sr. AME Trainee/Aircraft Maintenance Engineer Trainee (AME Trainee). The qualifications prescribed for Sr. AME Trainee AME Trainee are:-

“ELIGIBILITY CRITERIA (As on 01.03.2005)

EDUCATIONAL QUALIFICATIONS:

FOR SR. AME TRAINEE & AME TRAINEE

Passed 10+2 examination or its equivalent with Physics, Chemistry and Mathematics.

TECHNICAL QUALIFICATIONS:

For Senior AME Trainee

I. A&C TRADE:

a) Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DGCA in the category of Heavy Aircraft 'HA' and Jet Engine 'JE'.

AND

b) Valid Licence in category 'C' on Jet Aircraft with MTOW of more than 5700 Kg.

II. ENGINE TRADE:

a) Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DECA in the category of Jet Engine 'JE'.

AND

- b) *Valid licence in category 'C' on Jet Aircraft with MTOW of more than 5700 Kg.*

III. ELECTRICAL/INSTRUMENT/RADIO TRADES:

- a) *Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DGCA in all three categories viz., 'ES', 'IS', 'RN' on Jet Aircraft.*

AND

- b) *Valid Licence in one or more category viz. 'ES' 'IS' 'RN' on Jet Aircraft with MTOW of more than 5700 Kg.*

For AME Trainee:

I. A & C TRADE:

Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DGCA in the category of Heavy Aircraft 'HA' and Jet Engine 'JE'.

II. ENGINE TRADE:

Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DECA in the category of Jet Engine 'JE'.

III. ELECTRICAL/INSTRUMENT/RADIO TRADES:

Basic Aircraft Maintenance Engineer's Certificate (BAMEC) issued by DGCA in all three categories viz. 'ES' 'IS' 'RN' on Jet Aircraft.

45. The qualifications for Technicians are entirely different. As a matter of fact, it is common ground those who are working as Technicians can acquire qualification and compete for selection to the posts of Engineers. It is also common ground that the Technicians function under the supervision and control of the Engineers. All these factual matrix are referred to by the AIAEA and not disputed by the IATA."

9. The arbitrator after discussing further contentions was of the opinion that the claim for redesignation, in turn, based on parity with Air India employees' designation structure was unfounded and, therefore, rejected it.

10. The petitioner has made no attempt to show how the findings by the arbitrator in respect of those working as technicians, unable to acquire qualifications for selection to the post of engineers as long as they continue to function as technicians, do so under supervision and control

of the engineers. Further, the arbitrator reached the conclusion that he had, based upon the eligibility criteria in terms of educational qualifications spelt out for the engineering staff represented by the second respondent. It is not denied that the petitioner, as technicians and members of the non-engineering staff did not possess such qualification. That there is a possibility for acquiring the same, compete for the engineering posts and getting on to such cadre only serves to underline the distinction, not to establish a parity, as claimed.

11. There is yet another reason why the petitioner's claims cannot be accepted. Every organization is driven by its own imperatives. There is no data or material on record – apparently it exist before the Tribunal; it was not shown to the Court disclosing the ratio of such staff in the two organizations. In these circumstances, the Court directing parity on the basis of existing parity in another organization would inevitably result in disruption of the organizational hierarchy, in terms of the responsibility, reporting etc and lead to confusion.

12. For the above reasons, this Court discerns no infirmity or illegality in the impugned order. The writ petition and accompanying applications have to, therefore, fail. It is clarified that nothing stated in this order shall be construed as inhibiting the management of the National Aviation Company of India Limited, in the light of the changed circumstances or relevant factors, to take its own independent decision with regard to establishing parity or otherwise. The writ petition is dismissed, subject to these observations.

**S. RAVINDRA BHAT
JUDGE**

**MAY 06, 2009
'ajk'**

