

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.No.30376 OF 2015

MP.No.1 of 2015

Lyme George
Petitioner

Vs

1.The General Manager (Personnel
Air India Limited, Chennai-27

2.The Deputy General Manager (Ops) IFS
Air India Limited,
Southern Region, Chennai-27

Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Certiorari to call for the records relating to the order of the 2nd Respondent dated 30.07.2015 in Ref.No.MAA/IFS/CC/DISC/81010263/788 and to quash the same.

For Petitioner : Mr.Vijaya Narayanan,
Senior Counsel for
Mr.Parthiban

For Respondent : Mr.NGR.Prasad, SC

ORDER

In this Writ Petition, the Petitioner has challenged the proceedings of the 2nd Respondent dated 30.07.2015, imposing punishment.

2. The Petitioner joined in the Respondent Company as an Air Hostess on 8.1.1990 and she worked as a Cabin Crew for more than 20 years and she is presently working as Assistant Manager (IFS). She was the Chief Cabin Crew In-charge of the Flight AI-907/908 on 1/2.07.2015. A search on the crew baggage, while the transport carrying crew members arrived at the entrance of the Integrated Security Complex, was conducted on 2.7.2015. It was found by the Security Department that there was an unclaimed green zipper bag containing items in the crew shuttle transport and the catering items supplied by Taj Flight Kitchen for AI 907/AI 908 of 2nd July 2015 were found in the said bag. Then, all the crew members of AI 908 were called for investigation on

6.7.2015 and all of them stated that the green zipper bag did not belong to them. Later, on further enquiry, the Petitioner accepted the ownership of the said bag. After investigation, a report dated 13.7.2015 was submitted by the Investigating Officer and based on the said report, disciplinary action was initiated against the Petitioner. After issuing the show cause notice dated 29.07.2015 through email to the Petitioner, the impugned order dated 30.7.2015 has been passed, imposing punishments in three folds, namely, (1) severe warning, (2) the Petitioner would not be rostered for any international night stops involving payment of foreign allowance and (3) the Petitioner will not be permitted to exercise the privileges of "Cabin Crew In charge with effect from 1.8.2015 until further notice. Hence, this Writ Petition has been filed.

2. The learned senior counsel appearing for the Petitioner has submitted that the impugned order is in total violation of the Air India Employees Service Regulations and there was no sufficient notice given to the Petitioner before passing the impugned order of punishment, inasmuch the notice is dated 29.7.2015 and the impugned order is dated 30.7.2015 and that the Petitioner ought to have been given sufficient opportunity to submit her explanation and prayed for quashing of the impugned order. The learned senior counsel also submitted that the Respondent cannot ignore the statutory rules and they are bound to adhere to the Air India Employees Service Regulations strictly. The case reported in 2012 5 SCC 242 (Vijay Singh Vs. State of UP and others) is also cited.

3. The Respondents filed a counter affidavit, contending that the CCTV Video clippings revealed that the green zipper bag was handled by the Petitioner on the date of the incident and on seeing the video clips only, the Petitioner accepted the ownership of the bag and that based on the statement of the Petitioner sent through email and the investigation report dated 13.7.2015, disciplinary action was initiated and the impugned order has been passed, imposing punishment, pending the disciplinary proceedings, which warrants no interference.

4. This court heard and considered the submissions made by the learned counsel on either side and also perused the materials placed on record.

5. It is not in dispute that on the search made on the crew baggage on 2.7.2015, the catering items supplied by Taj Flight Kitchen for AI 907/AI 908 of 2nd July 2015 were found in the green zipper bag and that though in the enquiry conducted on 6.7.2015, all of them stated that the green zipper bag did not belong to them, later the Petitioner accepted the ownership of the bag. But, according to the Petitioner, the offence alleged was not admitted.

Petitioner that she was on flight duty till 30.07.2015 and hence, she could not see the show cause notice dated 29.07.2015 sent through email and there was no sufficient opportunity was given to substantiate her case, before passing the impugned order on 30.07.2015.

7. As stated by the Petitioner, it is seen from the records that on 4.7.2015 an email was sent to the Petitioner for attending an enquiry on 6.7.2015, to which the Petitioner sent replies dated 7.7.2015 and 10.07.2015 through email. However, without considering the same, the Respondent sent the show cause notice dated 29.07.2015, through email calling for explanation. But, however, on the next day, i.e. 30.07.2015, the impugned order of punishment has been passed, without waiting for a reply from the Petitioner, thereby violating the principles of natural justice and on this ground alone, the impugned order is liable to be set aside. However, there are specific averments to the effect that the Petitioner herself accepted the ownership of the baggage and that the video clippings also revealed that the said baggage was handled by the Petitioner on the date of the incident, the Respondents can be directed accordingly. Further in the counter affidavit, it is averred that "the action in putting off the Petitioner from international flights involving night stops and CCIC is purely an administrative decision, which can be reviewed at any point of time and in case this Court takes the view the impugned order as punitive, we are willing to conduct a regular department enquiry, where the Petitioner will be given full opportunity. We have reserved such right in the impugned order."

8. In view of the above, the impugned order is set aside on the ground of not giving sufficient opportunity to the Petitioner. However, the matter is remanded back to the Respondents for fresh consideration. The Respondents are directed to consider the matter afresh, after giving sufficient opportunity to the Petitioner to put forth her case and proceed further, in accordance with law.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

1.The General Manager (Personnel),
Air India Limited, Chennai-27

2.The Deputy General Manager (Ops) IFS,
Air India Limited, Southern Region
Chennai-27

+ 1 cc to M/s. R. Parthiban, Advocate Sr.66634

+ 1 cc to M/s. NGR Prasad, Advocate R.

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RSK(CO)
EU 29.12.15.



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