

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No. 20178/2005
% **19th February, 2015**

BHOOP SINGH Petitioner

Through : None.

versus

THE MANAGING DIRECTOR, M/S. INDIAN AIRLINES LTD. &
OTHERS Respondents

Through : Mr. Rohit Kumar Aggarwal, Adv.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner who was an employee of Indian Airlines Limited; represented by respondents no.1 to 3, seeks the relief of release of all the withheld increments by taking the service of the petitioner, for 22 and a half years from 1983 without any break and with consequential directions being prayed for the release of appropriate monetary benefits and pension.

2. A reading of the writ petition shows that in fact there is no legal cause of action pleaded as to how the petitioner should get the benefit of 22

and a half years of service without break, and the petition is only full of generalities.

3. However, even the writ petitioner lets the cat out of the bag that he cannot get the benefit of 22 and a half years of service because the petitioner admits that he was dismissed from service and which dismissal from service achieved finality in 1994. Except pleading that the petitioner was a good employee the petition does not contain any legal cause of action and in fact does not give necessary facts for grant of reliefs prayed and thus facts become clear from the counter affidavit which is filed by the respondent nos. 1 to 3. The counter affidavit filed by the respondent nos.1 to 3 shows that petitioner was a totally indisciplined employee and was subjected to various punishments, as stated in para 3 of the preliminary objections, and which para reads as under:-

“3. That the petitioner joined Indian Airlines on 24.11.83 as Security Assistant and his service record has been blemished and very unsatisfactory, the details whereof are as under:-

- (i) Advised to be careful while dealing with other staff vide memo no.IGIA/PS/DIS/3051 dated 12.05.88 of Sr. Dy. MPS, IGI Airport.

- (ii) Advised to be careful vide memo No.DAD/STF/DISCPL/243 dated 17th Aug., 1988 for insubordination and disorderly behaviour with Sr. Dy.MPS, NR.
- (iii) Warned vide Sr. Dy. MPS, IGIA Memo No.IGIA/PS/DIS/9350 dated 30.12.88 for punching attendance card even though he was not on duty on 26.11.87 and 16.12.87.
- (iv) Reduction of basic pay by one stage in the time-scale for a period of one year” vide memo no.DAD/STF/DIS/452 dated 22/27.02.1989 for wilful insubordination and disobedience.
- (v) In the Annual Performance Appraisal for the year 1988-89 the factor ‘Conduct’ was reported adversely with the following remarks “does not get along well with others” and the same was conveyed to him vide Sr. Dy. MPS Memo No.IGIA/PS/EST/APA/2003 dated 2nd March, 1990.
- (vi) “Reduction of basic pay by two increments in the time scale with cumulative effect” vide memo No.DAD/STF/DIS/227 dated 14th June, 1990 for misbehaving with Sr. Security Officer, Northern Region.
- (vii) Advised to behave properly while dealing with the Officer of the Corporation vide Chief Security Officer, Northern Region memo No.DAD/SEC/8295/895 dated 02.08.1991.

(viii) In the Annual Performance Appraisal for the year 1990-91 your overall performance was adjudged to be “Poor”. The factors adversely reported were:-

- (a) Dependability – “Requires constant supervision”
- (b) Conduct – “Does not get along with others” and the same was conveyed to him vide Sr. Dy. MPS, memo No.IGIA/PS/EST/8488 dated 9th December, 1991.”

4. Not only the petitioner was an indisciplined employee as stated above, the petitioner infact was subjected to disciplinary proceedings and a charge-sheet dated 06/08.12.1988 was issued against the petitioner for misconduct as under:-

- *Wilful in-subordination or disobedience, whether alone or in combination with others, if any lawful and reasonable order of his superior.*
- *Commission of any act subversive of discipline or of good behaviour in the premises of the establishment.*
- *Disorderly or indecent behaviour in the premises of the establishment.”*

5. The Enquiry Officer gave his report dated 13.01.1992 against the petitioner and thereafter the petitioner was imposed a punishment of

“removal from services of Indian Airlines” by the order dated 09.03.1992. The dismissal order was confirmed by the National Industrial Tribunal at Mumbai vide its judgment dated 20.05.1994. Petitioner’s services therefore stood terminated with effect from 09.03.1992 and as confirmed by the National Industrial Tribunal vide its judgment dated 20.05.1994.

6. Petitioner as a special case however was given appointment to the post of Security Assistant vide letter dated 31.07.1996 at Udaipur Station. The petitioner thereafter retired on 31.03.2004 from the services of Indian Airlines at the age of 58 years. For the period of service from 31.07.1996 to 31.03.2004, the petitioner has received all monetary benefits, but the petitioner is not satisfied and he claims that he should be granted monetary benefits taking that he has been in continuous employment from 1983 when he was appointed as a Security Assistant.

7. Obviously, no reliefs can be claimed by the petitioner of his employment since 1983 because it is an admitted fact on record that the petitioner’s services stood terminated by the order of the disciplinary authority dated 09.03.1992 and which was confirmed by the National Industrial Tribunal vide its judgment dated 20.05.1994. Thus, the services of the petitioner can only be counted from the date of the fresh appointment

vide letter of Indian Airlines dated 31.07.1996. It may be noted that when the petitioner was given fresh employment in 1996 vide the appointment letter dated 31.7.1996, the appointment letter categorically stated that the petitioner will not have benefit of his past service which was rendered by the petitioner to the employer and the petitioner acted upon the said letter by taking employment with Indian Airlines Limited. Petitioner is also therefore estopped from filing this writ petition.

8. On the grounds of delay and *laches* also petitioner is not entitled to relief because the petitioner in the year 2005 effectively wants to challenge the terms of the employment as given vide letter dated 31.07.1996 and which were accepted and acted upon by him.

9. As per the Indian Airlines Employees Self Contributory Superannuation Pension Scheme, a minimum of 15 years period of service is required for grant of pension but the petitioner having only served from 31.07.1996 to 31.03.2004, was hence not entitled for pension and which was therefore not granted.

10. In view of the above, the writ petition is clearly without any factual basis or legal basis. In fact, there are no requisite averments pleaded of the facts constituting the cause of action. Petitioner is guilty of *malafides*

inasmuch as the petitioner seeks to re-open his dismissal order of 1992 and which was confirmed by the National Industrial Tribunal in 1994.

11. The writ petition is therefore an abuse of the process of the law and is accordingly dismissed. I am not imposing exemplary costs on the petitioner only for the reason that the petitioner has retired, though simultaneously noting that the petitioner has been totally indisciplined during the period of service and the petition itself, as stated above, filed without any basis, has put the employer/ Indian Airlines Limited to necessary wastage of time and expenses.

12. Dismissed.

FEBRUARY 19, 2015
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VALMIKI J. MEHTA, J