

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 15.09.2016

CORAM:

The Honourable Mr. Justice M.M.SUNDRESH

Review Application (Writ) Nos.79 & 80 of 2016  
in  
W.P.No.32885 of 2014 & 124 of 2016

Capt. M.S.Krishna Kumar  
"Lakshmi Krishna" 32, Perialwar Street,  
Sundaram Colony, East Tambaram,  
Chennai-600 059.

.. Petitioner in both  
Review Applications

Vs

1 .Union of India

Rep. by its Secretary, Ministry of Civil  
Aviation, Rajiv Gandhi Bhavan,  
Safdarjung Airport, New Delhi-110003.

2 .Air India Limited,

Rep. by Chairman and Managing Director,  
Airlines House, Gurudwara Rakabganj Road,  
New Delhi-110001.

3. Air India Limited,

Executive Director of Operations,  
New Delhi-110 003.

4. Air India Limited

General Manager, Operations Department,  
Meenambakkam, Chennai-600 027.

.. Respondents in  
Rev.A.79/2016

- 1 .Union of India  
Rep. by its Secretary, Ministry of Civil  
Aviation, Rajiv Gandhi Bhavan,  
Safdarjung Airport, New Delhi-110003.
- 2 .Air India Limited,  
Rep. by Chairman and Managing Director,  
Airlines House, Gurudwara Rakabganj Road,  
New Delhi-110001.
3. Air India Limited,  
Executive Director of Operations,  
New Delhi-110 003.
4. Air India Limited,  
Executive Director of Flight Safety,  
New Delhi-110 003.
- 5.Central Training Establishment,  
Air India Limited,  
Represented by its Director of Training,  
(CTE) Ferozguda, Hyderabad-500 011.
6. Air India Limited  
General Manager, Operations Department,  
Meenambakkam, Chennai-600 027.

. Respondents in  
Rev.A.No.80/2016

These Review Applications are filed, seeking to review the order dated 15.06.2016 passed in W.P.Nos.32885 of 2014 and 124 of 2016.

For petitioner: Mr.Capt.M.S.Krishnakumar  
Party-in-person

For Respondents: Mr.K.Srinivasamurthy for  
Mr.N.G.R.Prasad for R2 to R4  
No representation for R1

COMMON ORDER

These Review Petitions are filed by the writ petitioner, seeking to review the order, dated 15.06.2016 passed in W.P.Nos.32885 of 2014 and 124 of 2016.

2. Since these Review Applications arise out the common order, dated 15.6.2016, the same are taken together and being disposed of by this common order.

3. The petitioner, who appears as party in person, has made two submissions for consideration by this Court in order to review the order. Firstly, according to the petitioner, the proceedings dated 02.02.2015 of the Training Committee/5<sup>th</sup> respondent, which was challenged in W.P.No.124 of 2016, cannot be sustained in the eye of law for lack of jurisdiction inasmuch as, as per the Circular No.2 of 2013, only Director General of Civil Aviation, Operations has the power to suspend or revoke and withdrawal or reinstatement and while so, the petitioner's check pilotship was neither suspended nor revoked by the licensing authority, i.e. the Director General of Civil Aviation.

4. Secondly, the parameters mentioned in the said Circular for taking the aforesaid action of withdrawal or reinstatement of a Check Pilot are not available in the case on hand.

5. The petitioner submits that the above said Circular could not be brought forth before this Court on the earlier occasion as it was not available with him at the relevant point of time. Hence, he prayed for allowing the review petitions.

6. Resisting the review petitions, learned counsel appearing for the respondents, based on the counter affidavit, submits that the review petitions are neither maintainable in law or on facts. He further submits that what has been done by the order, 15.06.2016, to consider the case of the petitioner for revaluation on the ground of non-compliance of the earlier direction issued. This was done as recorded by this Court, by taking into consideration the relevant materials. Learned counsel pointed out that in fact, the said Circular upon which, now the petitioner sought reliance, has always been available to every officer/employee of the respondent since it has been posted in the official website. Hence, it is submitted that no interference is required.

7. By way of reply, the petitioner submits that by virtue of the Circular, the order passed in the year 2011 removing him from the Check Pilotship, is bad in law and therefore, all the other proceedings will have to be declared as non-est in law.

8. Heard the petitioner and the learned counsel for the respondents.

9. It is not in dispute that the initial order passed in the year 2011 has never been put in challenge by the petitioner. On the contrary, as recorded by this Court, the petitioner, through his conduct, at times, accepted the said decision. The order dated 2.2.2015 also records the fact that it is the then CFOI-DGCA has informed GM (Ops.)-Training – CTE to subject the petitioner to undergo CAT II/III B (LVO) performance/Technical classes which he has not undergone informing the ill health of his family member. Admittedly, this has not been done. Even this, he has accepted, quoting alleged ill health of his family member. Thereafter, he has taken different stand through his mail, stating that “I am unable to go till I am upgrade on Airbus”. These factors, in fact, were recorded by this Court while passing the final orders in the writ petitions. This *prima facie* shows that the

action was initially taken to make the petitioner to undergo training by the DGCA itself and thereafter, the request of the petitioner for revaluation was not taken by the order dated 2.2.2015. This has got nothing to do with the Circular *per se*.

10. This Court has considered the material available on record *in ex tenso*, while passing the orders in the writ petitions.

11. Therefore, these Review Petitions are liable to be rejected since no grounds are made out to review the order.

12. At this stage, after completion of the dictation of the order, the petitioner tries to make one more submission on the order passed in the review petitions. He submits that the person who conducted interview on behalf of the DGCA, was not functioning under it and therefore, he was incompetent to undertake the said exercise. This Court is afraid that the said submission can be countenanced for more than one reason. Such a plea though available earlier to him, has not been taken by the petitioner earlier and even now.

13. The petitioner has not questioned the exercise done by the said authority. It is also not his case that the person who conducted the interview, has not been authorized by DGCA. The

said decision made by the authority who conducted the interview, was also not put into challenge. However, on the contrary, the petitioner merely sought time. Therefore, the said contention is also rejected.

14. In view of the above discussion, the Review Petitions are dismissed.

07.09.2016

Issue order copy on 09.09.2016

M.M.SUNDRESH, J.

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Rev.Petn. Nos.79&80 of 2016

07.09.2016