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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6989/2013

MAHABIR SINGH BENIWAL

..... Petitioner

Through: Mr Gagan Gupta, Advocate.

versus

DIRECTOR GENERAL OF CIVIL AVIATION
& ANR.

..... Respondents

Through: Mr Pradeep Kumar Jha, Advocate
with Mr Chandramani Pandey, Asst.
Director DGCA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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09.02.2018

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 11.01.2011 (hereafter 'the impugned order') issued by respondent no.1 (hereafter 'DGCA') suspending the petitioner's Commercial Pilot Licence (Licence No.CPL1376) in terms of Rule 19(3) of the Aircraft Rules, 1937 (hereafter 'the Aircraft Rules').
2. The petitioner had obtained the Commercial Pilot's Licence in the year 1982, which was renewed from time to time. The said Licence was last renewed on 26.02.2007 and was valid upto 25.02.2012.
3. The petitioner had joined as a Pilot-Instructor Incharge/Chief Flying Instructor at Haryana Institute of Civil Aviation, Chandigarh and was posted at Hisar on 02.01.2003. During the period 2010-11, twelve FIRs were filed,

inter alia, against the petitioner. The allegation against the petitioner was that he had countersigned certain certificates of pilots, which were found to be fake. The petitioner states that in three of the said FIRs, the petitioner has been given a clean chit and no charge sheet has been filed against the petitioner; however, proceedings in relation to the other FIRs are pending.

4. In view of the above allegations, the DGCA had passed the impugned order.

5. Before proceeding further, it is relevant to refer Rule 19(3) of the Aircraft Rules, which reads as under:-

“(3) If the Central Government is satisfied that there is sufficient ground for doing so or, in the case of suspension during investigation that suspension is necessary in the public interest, it may, for reasons to be recorded in writing,-

- (a) suspend any certificate, rating or licence, [authorisation and approval] or any or all of the privileges of any certificate, rating or licence, [authorisation and approval], for any specified period;
- (b) suspend any certificate, rating or licence, [authorisation and approval] during the investigation of any matter;
- (c) cancel any certificate, rating or licence, [authorisation and approval]; or
- (d) endorse any adverse remarks on any certificate, rating or licence, [authorisation and approval].”

6. It is apparent from the plain reading of the aforesaid Rule that the Central Government can suspend the Licence of a Commercial Pilot during the investigation if it considers that the same is necessary in public interest. It is also necessary that the reasons for such action are recorded in writing.

7. Concededly, the petitioner was not given any opportunity to show cause why the Central Government (DGCA) should not take any such measure. Facially, the impugned order also does not indicate that the Central Government was satisfied that suspending the petitioner's Commercial Pilot Licence was necessary in public interest. Undisputedly, the impugned order has severe adverse consequences for the petitioner. Thus, this Court is of the view that it was necessary for the DGCA to have afforded the petitioner an opportunity of being heard before passing the impugned order.

8. In view of the above, the impugned order cannot be sustained and it would be apposite to set aside the same and remand the matter to the DGCA for consideration afresh after affording the petitioner an opportunity to be heard. However, the petitioner's Commercial Pilot Licence has since expired and, therefore, the question of directing that suspension be revoked would not be apposite.

9. It is not disputed that if the petitioner seeks the Licence/renewal thereof, he would have to apply under Rule 42 of the Aircraft Rules.

10. In view of the above, this Court considers it apposite to direct that in the event the petitioner applies for Commercial Pilot's Licence in accordance with Rule 42 of the Aircraft Rules, the impugned order would not come in the way of the petitioner's application being considered. It is clarified that the DGCA (Central Government) would, nonetheless, retain the jurisdiction of keeping the Licence under suspension by passing an appropriate order under Rule 19(3) of the Aircraft Rules if and when the

Licence is renewed/issued. Needless to state that any such order would necessarily have to conform the requirements of Rule 19(3) as noted above.

11. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

FEBRUARY 09, 2018
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