

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

Date of Order: January 11, 2018

+ **W.P.(C) 11699/2017 & CMs 47462/2017**

VIVEK DHANI Petitioner

Through: Mr. Joel, Advocate

versus

AIR INDIA LIMITED AND ORS. Respondents

Through: Mr. Mukesh Kumar, Advocate for
respondent No.1

Mr. Vinod Diwakar, CGSC, Mr. Sanjay Pal and
Mr. Akshaya Agarwal, Advocates for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In this petition, quashing of orders of 22nd June and 1st September, 2016 as well as orders of 26th April and 10th July, 2017 passed by second respondent is sought on the strength of medical certificates (*Annexures P-10, P-11 & P-20*).

2. At the outset, learned counsel for petitioner submits that the challenge to the orders of 22nd June and 1st September, 2016 would be futile and this petition is confined to orders of 26th April, 2017 and 10th July, 2017. It is submitted that petitioner had suffered Tonic-Clonic Seizure on 19th July, 2013 and he was assigned ground duties for a period of three years and three months, although he was a commercial pilot. The said period had lapsed on 21st January, 2017 and thereafter, petitioner was

again medically examined on 26th April, 2017 and as per Medical Certificate (*Annexure P-3*) petitioner's period of temporary unfitness was extended for another period of thirty months.

3. Learned counsel for petitioner submits that the medical certificates (*Annexures P-10, P-11 & P-20*) were produced before the concerned Authority, but they have not been taken into consideration. It is submitted that as per medical certificates issued by Max and Apollo Hospital as well as Government Hospital i.e. R.M.L. Hospital, petitioner has been assessed to be fit for flying duties. Attention of this Court is drawn to the Manual of Civil Aviation Medicine (*Annexure P-15*) to point out that in cases of pilot engaged in Multi-Crew Operations, their effective incapacitation may be considered less stringently. It is submitted on behalf of petitioner that petitioner has been on Multi-Crew Operations and so, there is no justification to deny the flying duties to petitioner whose Commercial Pilot Licence has lapsed in December, 2017 and only after petitioner is given medical fitness, it can be renewed.

4. In the facts and circumstances of this case, it is deemed appropriate to permit petitioner to file a Representation seeking reconsideration of the Review Medical Certificate (*Annexure P-3*) in light of the medical certificates (*Annexures P-10, P-11 & P-20*) and in case the authorities concerned still decide to declare petitioner temporarily unfit, then reasons for doing so, be spelt out in the order passed on petitioner's Representation so filed and the needful be done within a period of four weeks of receiving such Representation and its fate be conveyed to petitioner within a week thereafter, so that petitioner may avail of the remedies as available in law, if need be.

5. With aforesaid directions, this petition and the applications are disposed of. *Dasti* to counsel for the parties.

(SUNIL GAUR)
JUDGE

JANUARY 11, 2018

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