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

+ **W.P.(C) 13419/2018**

JET AIRCRAFT MAINTENANCE ENGINEERS

WELFARE ASSOCIATION

..... Petitioner

Through Mr Sunil Satyarthi, Advocate with
Mr Yeshwant Sheroy, Advocate.

versus

THE UNION OF INDIA AND ORS.

..... Respondents

Through Ms Anjana Gosain, Advocate with
Ms Shalini Nair, Ms Rabiya Thakur, Advocates
for R1 and R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.12.2018

CM APPL. 52260/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 13419/2018

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Direct the Respondent No.2 to formulate a Civil Aviation Requirement (CAR) to regulate Duty Time Limitations for the AME’s in accordance with the recommendations of COI, Mangalore within 6 months from the date of order.

(b) Direct the Respondent no.2 to involve the representatives of the Petitioner in the formulation of the CAR and to ensure that the rules take into account

the scientific data as regards the circadian cycles and the same are clinically correlated.

(c) Direct the Respondent No.2 to ensure that an AME cannot certify more than one aircraft in any given hour or between two clearances there is a gap of at least one hour.”

4. It is the petitioner’s case that fatigue of the Aircraft Maintenance Engineers (AMEs) and Air Traffic Controllers (ATCs) is one of the causes for aviation accidents. The petitioner has also referred to the report of the accident of the Air India Express Boeing 737-800 Aircraft VT-AXV on 22.05.2010 at Mangalore and drawn the attention to the recommendations made therein. The relevant extract of the said recommendation are as under:-

“4.3.6 Revision of Duty Time Limitation (DTL) for Other Staff Related to Aviation

In keeping with the growth of Civil Aviation Sector, there is a need to formulate Duty Time Limitations (DTL) and fatigue factor for the following groups of personnel:-

a) Air Traffic Controllers

b) Aircraft Maintenance Engineers”

5. The petitioner states that in terms of the recommendations made from time to time, the respondent no.2 (Directorate General of Civil Aviation – DGCA) had issued an advisory (Airworthiness Advisory Circular dated 06.02.2018) that provides for the management of fatigue of the staff employed. According to the petitioner, the same also includes AMEs.

6. The petitioner’s grievance is that the said Advisory is not mandatory

and is not being followed by certain airlines. It is in this context that the petitioner, essentially, seeks that the DGCA issue a mandatory CAR under the provisions of the Aircraft Act, 1934.

7. Ms Gosain, the learned counsel who appears for the respondents submits that as per her instructions the Advisory issued is being followed by the Airlines and the Airlines have framed their separate manuals incorporating the same.

8. Section 4A of the Aircraft Act, 1934 provides that the DGCA or any other officer specially empowered in this behalf by the Central Government shall perform the safety oversight functions in respect of matters specified in this Act or the rules made thereunder. Thus, there can be no dispute that DGCA (or any other officer specially empowered by the Central Government) is required to ensure that the necessary safety measures are implemented. However, it is not necessary that such measures be ensured only by issuing CARs. It would be open for the concerned authorities to examine the risks and to take such measures as they consider fit.

9. In this view, this Court does not consider it apposite to direct the respondents to specifically issue a CAR in this respect. However, since the petitioner has highlighted an issue with regard to the fatigue of AMEs and ATCs, this Court considers it apposite to direct the DGCA to consider the averments made in the present petition as a representation and to take such measures as it deems fit and in accordance with law as expeditiously as possible.

10. The petitioner is also at liberty to make additional representation

highlighting its concerns as articulated in this petition. Needless to state that if such a representation is made, the respondents shall also consider the same.

11. The petition is disposed of in the aforesaid terms.

DECEMBER 12, 2018
pkv

VIBHU BAKHRU, J