

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[JUDGMENT RESERVED ON : 11.03.2019]

[JUDGMENT DELIVERED ON : 20.12.2019]

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM
and
THE HON'BLE Mr. JUSTICE RMT.TEEKAA RAMAN

Review Application Nos.44, 45, 47 and 48 of 2019
in
W.A.Nos.1650, 1651, 1648 and 1649 of 2016

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

... Petitioner in all Review
Applications/Party in Person

.. Vs ..

1. Union of India
Rep. by its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi-110 003.
2. Air India Limited,
Rep. by Chairman and Managing Director,
Airlines House, Gurudwara Rakabganj Road,
New Delhi-110 001.
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. Application Nos.44 & 47/2019

1. Union of India
Rep. by its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi-110 003.
2. Air India Limited,
Rep. by Chairman and Managing Director,
Airlines House,
Gurudwara Rakabganj Road,
New Delhi-110 001.
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 the Director of Training,
(CTE) Ferozguda, Hyderabad - 500 001.
6. Air India Limited,
General Manager,
Operations Department,
Meenambakkam,
Chennai - 600 027.

.. Respondents in
Rev. Application Nos.45 & 48/2019

Prayer in all Review Applications :

Review Applications preferred under Order 47 Rule 1 Read With Section 114 of C.P.C. against the common judgment of this Court dated 28.09.2018 made in W.A.Nos.1650, 1651, 1648 and 1649 of 2016 respectively.

Prayer in WA.NO.1648/2016 & 1650/2016

Writ Appeal filed under clause 15 of Letters Patent, praying to set aside judgment dated 15.06.2016 & 07.09.2016 respectively

passed in W.P.No.32885 of 2014 and Review Petition No.70 of 2016 in WP.No.32885 of 2014 respectively and allow the Writ Appeal/Review Appeal.

Prayer in W.A.No.1649/2016 & 1651/2016:

Writ Appeal filed under clause 15 of Letters Patent, praying to set aside judgment dated 15.06.2016 & 07.09.2016 respectively passed in W.P.No.124 of 2016 and Review Petition No.80 of 2016 in WP.No.124 of 2016 respectively and allow the Writ Appeal/Review Appeal.

Prayer in Rev.Petition 79/2016 in W.P.No.32885/2014:

To Review the order dated 15.06.2016 passed in W.P.No.32885 of 2014 on the file of this Honble Court allows this Review Petition.

Prayer in WP.No.32885/2014:

Directing the respondents 1-4 to implement the recommendations of the grievance committee dated 14.03.2014 in letter and spirit and thereby restore the petitioner check pilot license including other monetary benefits and promote him to the post of Instructor within a time frame fixed by this Honourable Court.

Prayer in Rev.Petition 80/2016 in WP.NO.124 of 2016:

Review the order dated 15.06.2016 passed in W.P.No.124 of 2016 on the file of this Honble Court allows this Review Petition.

Prayer in WP.No.124/2016:

Directing the 5th respondent calling for the records on 2.2.2015 in Training Committee proceedings headed by the 5th respondent to quash the same and consequently direct the 5th respondent to restore the Check-Pilot (the name is changed to Line Training Captain (L.T.C)) as per Civil Aviation Requirements (C.A.R) Series 1 Part 11 Section 7 with Standardisation and revalidation for Line Training Captain which including other consequential benefits with more emphasize on average instructional hours and monetary benefits and promote the petitioner to the next post of instructor after necessary Training as per Civil Aviation Regulation within a time frame

In All Rev. Applications:

For Petitioner : Mr.M.S.Krishna Kumar,
Party-in-person

For R-1 : Mr.J.Madanagopal Rao,
Senior Central Govt. Standing Counsel

For RR-2 to 4 in
Rev.A.Nos.44 &
47/2019 and

RR-2 to 6 in
Rev.A.Nos.45 &
48/2019 [Air India] : Mr.N.G.R.Prasad
for Mr.K.Srinivasamurthy

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COMMON ORDER

[made by RMT.TEEKAA RAMAN, J.]

All these Review Applications have been filed seeking to Review the common order passed in the batch of the Writ Appeals in W.A.Nos.1648 to 1651 of 2016, dated 28.09.2018.

2. Writ Appeal Nos.1648 and 1649 of 2016 have been filed against the order of dismissal passed by the learned single Judge in W.P.No.32885 of 2014 and W.P.No.124 of 2016 respectively, dated 15.06.2016 and W.A.No.1650 of 2016 has been filed against the order of dismissal passed by the learned Single Judge in Review Petition No.79 of 2016 in respect of W.P.No.32885 of 2014, while W.A.No.1651 of 2016 has been filed against the order of dismissal passed in Review Petition No.80 of 2016 in respect of W.P.No.124 of 2016.

3. The Review Petitioner/Party-in-person has reiterated the very same arguments advanced during the hearing of the above Writ Appeals. He has also emphasized upon the very same grounds that have been urged before the Bench consisting one of us, viz.,

[i] The problem with the respondents started when the review petitioner/party-in-person stopped the payment of cheque issued on behalf of his wife in respect of the training programme and he had done so, since his wife was not liable to pay.

[ii] For not heeding to the boycott calls and other Air India staff and in order to victimize the review petitioner, they have dugged up the past and commenced the proceedings belatedly, contrary to the instructions received by way of circulars.

[iii] Despite the decision of the Grievance Committee, which is binding on the official respondents, they are not implementing the order, which has resulted in filing of the writ petition in W.P.No.32885 of 2014. Stating so, the review petitioner prayed for restoring his original position qua the Check Pilot.

4. After hearing the review petitioner/party-in-person and Mr.J.Madanagopal Rao, learned Senior Central Government Standing Counsel appearing for the first respondent in all the review petitions/Union of India and also Mr.N.G.R.Prasad, learned counsel appearing for respondents 2 to 6 in all the review petitions/Air India, we are of the view that the issue raised in these review petitions do not relate to promotion, since the Check Pilot is only an assignment with a specific role attached to it and the said assignment would be decided as per the Circulars. The duty of the Check Pilot is to check the proficiency of other pilots. Therefore, as a Check Pilot, one is required to have requisite parameters and there is no permanency attached to the Check Pilot. Further, it is seen that the character, conduct, seniority, managing skills, knowledge about the technicalities are subjected to review from time to time.

5. The review petitioner having given apology letter, cannot now turn around and challenge the earlier proceedings, in view of the letter given by him followed by orders dated 26.12.2012 and 29.04.2013 and thus, the conclusion arrived at by the earlier Bench that the only remedy available to the review petitioner at that given point of time, is to comply with the directions issued by the respondents on 26.12.2012 is correct. Furthermore, the subsequent letter dated 09.04.2013 is also binding on the review petitioner. Under judicial review, this Court, under Article 226 of the Constitution of India, cannot decide on the necessity and desirability to send an Officer for training. Similarly, the training undergone qua a Pilot would be read into a training meant for Check Pilotship which does not merit acceptance.

6. We have also heard the respective respondents' counsel at the time of admission. After going through the finding rendered in the Writ Appeals to the effect that a Technical Committee, consisting of 13 people from different faculty, has rendered a categorical finding about certain lapses committed by the review petitioner herein while landing the flight in Muscat whereby, the safety of the passengers was put to peril, in such view of the matter, the Technical Committee appears to have come to the conclusion and advised the review petitioner to undergo the safety enhancement training which is essential to ensure the safety of the passengers while take off and landing, which is more of technical in nature. Furthermore, for the reasons observed, the Division Bench of this Court has held that the Training Committee has asked the review petitioner to undergo ground classes. However for the reasons best known, the review petitioner has given a reply citing illness of his family members and he has not attended the classes and hence, it is not open to him to question its validity. It is also seen from the records that after passing of the said order, the Training Committee consisting of 15 officials on analysis of his conduct in the past, have come to the conclusion that the review petitioner fell short of required conduct and hence, he has to undergo further training and till such time, his Check Pilotship has to be kept in abeyance, which finding, according to us, does not amount to perversity.

7. In short, when the Technical Expert Committee, as in the instant case, has dealt with the matter in an elaborate manner, taking into consideration the conduct of the appellant, the finding given by the Technical Committee and the orders passed thereon cannot be subjected to judicial review under Article 226 of the Constitution of India.

8. In such view of the matter, the other allegations levelled by the review petitioner that in view of certain issues raised by him on behalf of his wife, the official respondents are unnecessarily digging his past records and causing shadow upon him and the same cannot be countenanced, in view of the technical finding rendered by the Technical Committee as to certain lapses on the part of the review petitioner herein touching upon the Air safety of the Air passengers in the flight. Besides, the role of a Pilot is different from that of a Check Pilot and unless the review petitioner satisfies the requisite parameters, he cannot automatically become a Check Pilot.

9. In this view of the matter, we are of the considered view that the findings rendered in the writ appeals as discussed supra are well considered and well merited. Further, there is no error apparent on the face of records nor another new facts came into light or any perversity for not taking the documents for consideration. Thus, viewing from stand point, we are of the considered view that the essential features to entertain the review applications does not arise for consideration and hence, in this view of the matter, the review applications are devoid of merits.

10. Accordingly, all these Review Applications stand dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Secretary,
Union of India,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi-110 003.
2. The Chairman and Managing Director,
Air India Limited,
Airlines House,
Gurudwara Rakabganj Road,
New Delhi-110 001.
3. The Executive Director of Operations,
Air India Limited,
New Delhi-110 003.
4. The General Manager,
Air India Limited,
Operations Department,
Meenambakkam,
Chennai - 600 027.

5. The Executive Director of Flight Safety,
Air India Limited,
New Delhi-110 003.

6. The Director of Training,
Central Training Establishment,
Air India Limited,
(CTE) Ferozguda,
Hyderabad-500 011.

+8cc to Mr.M.S.Krishna Kumar, Advocate sr.106154
+1cc to Mr.J.Madanagopal Rao, Advocate sr.106189
+1cc to Mr.N.G.R.Prasad, Advocate sr.106509

Order made in
Review Application Nos.44, 45, 47 and 48/2019
in
W.A.Nos.1650, 1651, 1648 and 1649/2016

mr(co)
nr 06/03/2020