

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.19238 of 2004
and
W.P.M.P.No.23142 of 2004

Indian Airlines Limited,
Rep., by its Manager (P),
Airlines House,
Meenambakkam,
Chennai-600 027.

.. Petitioner

-vs-

1.The Presiding Officer,
National Industrial Tribunal,
1st Floor, Shram Raksha Bhavan,
Shivsrusthi Road, Opp. Priyadarshini,
Off. Eastern Express Highway, Sion,
Mumbai-400 022.

2.C.K.Chandra
3.S.C.Sashi Kumari
4.S.C.Mohan Chander
5.S.C.Sathish Chander
6.S.C.Vijayakumari
7.Poosammal

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order dated 25.03.2004 passed by the 1st respondent National Industrial Tribunal, Mumbai in Approval Application No. NTB-90 of 1999 (arising out of Ref.No. NTB-1 of 1999) to quash the same and consequently direct the 1st respondent to restore the Approval Application No. NTB-90 of 1999 (arising out of Ref.No.NTB-1 of 1990), and hear the matter on merits.

For Petitioner : Mr.K.Srinivasamurthy

For Respondents : R1 - Tribunal

: RR2 & 5 - No appearance
:
: RR3 & 7 - Mr.A.J.Jawad
:
: RR4 & 6 - Ms.D.Geetha

ORDER

The order dated 25.03.2004, passed by the 1st respondent National Industrial Tribunal, Mumbai, in Approval Application No. NTB-90 of 1999 is sought to be quashed in the present writ petition.

2.The learned counsel for the writ petitioner Management made a submission that the former employee of the writ petitioner Management late Shri S.Chandrasekhar was terminated from service on account of certain misconducts. He was terminated after conducting a domestic enquiry and by following the procedures contemplated. The writ petitioner Management filed an approval application under Section 33-2(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") for approval of the order dated 20.09.1999, for the Indian Airlines Ltd., against the said Shri S.Chandrasekhar. During the pendency of the approval application before the 1st respondent, the employee late Shri S.Chandrasekhar died on 09.03.2004. Soon after the death of the employee, the learned counsel, who appeared for the employee, requested for grant of time to implead the legal heirs of the deceased employee so as to proceed with the approval application. However, the 1st respondent Tribunal dismissed the approval application on the ground that the same gets abated.

3.This Court is of a considered opinion that the death of an employee during the pendency of an approval application is not a bar to proceed with the approval application under Section 33-2 (b) of the Act. Death would not cause any abatement and therefore, the 1st respondent ought to have granted permission to the parties to implead the legal heirs of late Shri S.Chandrasekhar so as to proceed with the approval application. Contrarily, the application was rejected on the ground that the same was got abated.

4.The above being the decision taken by the 1st respondent Tribunal, this Court is of an opinion that the present case is a fit one for remand and consequently, the order dated 25.03.2004,

passed by the 1st respondent in Approval Application No. NTB-90 of 1999 is quashed and the 1st respondent Tribunal is directed to restore the approval application filed by the writ petitioner and adjudicate the same by affording opportunity to all the parties concerned and pass orders on merits and in accordance with law as expeditiously as possible.

5. With the above observations and directions, this writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

abr

To

The Presiding Officer,
National Industrial Tribunal,
1st Floor, Shram Raksha Bhavan,
Shivsrusthi Road, Opp. Priyadarshini,
Off. Eastern Express Highway, Sion,
Mumbai-400 022.

+lcc to Mr.N.G.R.Prasad, Advocate sr.99036
+lcc to Ms.D.Geetha, Advocate sr.100013

W.P.No.19238 of 2004

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nr 09/01/2020

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