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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition No. 14915 of 2019
and
WMP.Nos.14894 and 26691 of 2019

Capt D.Ganeshbabu
Atpl - 7192
Air India Express Limited
S1, 24 Loganathan Colony
Mylapore, Chennai - 600 004.

.. Petitioner

Versus

1. Joint Director General
Office of the Director General of Civil Aviation,
Civil Aviation Department,
Government of India,
New Delhi - 110 003.
2. Director General of Civil Aviation,
Office of the Director General of Civil Aviation,
Civil Aviation Department,
Government of India,
New Delhi - 110 003.
3. Secretary to Government of India
Ministry of Civil Aviation,
B Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi 110 003.
4. Air India Express Limited
1st Floor, Old Operations Building,
Air India Complex,
Old Airport, Santa Cruz (East)
Mumbai 400 029, India
5. The Director General
Aircraft Accidents Investigation Board (AAIB)
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110 003.

.. Respondents



Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the files relating to the order dated 24.10.2018 in DGCA/15020/7/2018-DAS of the first respondent, as confirmed by the order dated 11.12.2018 in 15013/15/2018-DAS of the second respondent / Director General of Civil Aviation and the order dated 24.04.2019 of the third respondent in No.A-19011/11/2018-DG, quash all the said orders and consequently, direct the fourth respondent herein to reinstate the petitioner in service with all financial and all other attendant service benefits to which petitioner is entitled to in the normal course and under law.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.V.Ashok Kumar,
Central Govt. Standing Counsel,
R1 to 3 & 5

Mr.K.Srinivasa Murthy-R4

ORDER

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus, calling for the files relating to the order of the first respondent dated 24.10.2018 in DGCA/15020/7/2018-DAS as confirmed by the order of the second respondent dated 11.12.2018 in No.15013/15/2018-DAS and the order of the third respondent dated 24.04.2019 in No.A-19011/11/2018-DG, quash all the said orders and consequently, direct the fourth respondent herein to reinstate the petitioner in service with all financial and other attendant service benefits to the petitioner.

2.According to the petitioner, he is a pilot serving in Air India Express Limited without any adverse remarks and is having incident/accident free flying experience of more than 4270 hours as on 11.10.2018. It is also stated that he holds an impeccable and unblemished service record and no adverse comments or entries noticed in his license previously for any indiscipline or irregularity or for violation of any of the provisions of the Air Craft Act, 1934 or the Air Craft Rules, 1937 or any Notifications or Circulars issued thereunder.

3.It is averred by the petitioner that he was appointed as Captain at the age of 32. On 11.10.2018, he operated Flight IX612/611 DXB/TRZ/DXB as Pilot in Command (in short, 'PIC'). The crew had an uneventful good flight on the first sector. After landing at Trichy, the cockpit crew carried out all the necessary preliminary works, wheel change etc. and thereafter



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they carried out all the procedures as per the Standard Operating Procedure (SOP). After all the passengers and papers were on board, the cockpit crew performed the necessary procedures like before start, taxi and before take off, followed by checklist. As per the SOP, the cockpit crew began to takeoff roll, the Pilot Monitoring First Officer called out 80kts and the petitioner verified the same. At the close to 110 kts, the Seat Backrest Recline of the petitioner collapsed throwing him out of balance and due to the same, his left and right hands went up in the air. He immediately transferred the controls to the Pilot Monitoring First Officer by calling 'you have controls'. The First Officer acknowledged and called 'I have controls'. After regaining balance, the petitioner readjusted his seat properly, looked outside and realised that only 2000 feet of the runway was remaining. Hence, he immediately took controls positively by calling 'I have controls' and the First Officer called 'You have controls' and thereafter, resumed Pilot Monitoring duties.

4.The petitioner also stated that for crossing 1000 ft marker to the end of runway, he started rotating; the Pilot Monitoring First officer gave rotate call out; as the cockpit crew lifted off, the petitioner felt that there was a slight shake of the aircraft and nothing else, which pilots feel at times due to the runway surface conditions and also due to the rotation of the nose wheel until the gears are retracted and the nose wheel rotation is stopped by the snubbers; and there was no abnormal vibration or unusual noise was felt or heard.

5.It is the further case of the petitioner that the cockpit crew climbed and cleaned the aircraft on schedule and performed 'after takeoff procedures' followed by checklist. As per the Air Traffic Control clearance, the cockpit crew turned right to intercept the 340 radial Technical Trouble Report. During the initial climb, the Air Traffic Control (in short, 'ATC') clarified with the cockpit crew as to whether the aircraft was lifted close to the end of the runaway, for which the cockpit crew acknowledged them. Later, they informed about possible damage to the localizer ground antenna and to confirm whether all operations are normal. The cockpit crew noted the same and immediately checked the pressurization, hydraulic system operation and engine parameters and having found satisfactory, informed ATC that all operations were normal. It was also informed that they found damage to the peripheral boundary wall of the airport and thereafter, again the above checks were carried out and found to be normal. The crew did not suspect any structural damage to the flight. Passing around FL207, the cockpit crew informed ATC that they want to level out at FL210, which was approved and it was carried out by reducing the speed within the landing gear operation, and thereafter operated the



landing gear and found it as normal. Thereafter, the cockpit crew called the cabin crew to clarify as to whether they felt anything unusual during takeoff, for which the cabin crew informed that they felt deceleration during takeoff roll and nothing else. At this point only, the cockpit crew realised that there was possibility of thrust lever movement since the petitioner's right hand was on the thrust lever and during the seat recline collapse, it might have moved inadvertently resulting in reduced takeoff performance and hence the deceleration. Thereafter, the cockpit crew checked with the cabin crew whether any passengers complained about any abnormal experience during takeoff and they said that no one had any complaint. The petitioner suspected that the aircraft engine exhaust wake might have caused damage to the ground localizer antenna and the boundary wall, since it rotated late when the fact remained that all operation checks revealed normal operations and the cockpit crew also clarified with the cabin crew that there was nothing unusual during takeoff.

6.The petitioner further stated that subsequently, they were informed that the company wants IX611 to come back to Mumbai. The cockpit crew checked the remaining fuel and found sufficient for diversion to Mumbai. Thereafter, all the procedures were followed and precautionary steps were taken for landing. At 1000 feet, the petitioner took over manually and performed the landing operation and there were no difficulties felt during the landing of the aircraft. IX611 landed normally and vacated the runway via N5 and taxied via N1, M7, Y1 to K6L. During turning into the bay, the petitioner's seat's backrest recline again collapsed down and since the aircraft was around 3 kts ground speed, he had positive control and corrected it and proceeded to the bay, took Auxiliary Power Unit on buses and completed shutdown, secured the procedure and followed the checklist as per SOP.

7.In the circumstances, the impugned order dated 24.10.2018 was passed by the first respondent, suspending his Pilot License ATPL No.7192 for three years, when he had not committed any act or acts / commission or omission deserving such punitive action, that too, without serving any notice on him, according to the petitioner. The petitioner further stated that on the date of incident, ie., on 12.10.2018, he had been certified as completely fit to fly and operate the Dubai bound B 737-800 Aircraft VT-AYD by the competent authorities.

8.The petitioner submitted a representation to the first respondent seeking revocation of the suspension of his licence. Since there was no response to the same, he preferred a statutory appeal before the second respondent, which was rejected without considering his objections and submissions, by



order dated 11.12.2018. Hence, he preferred a further statutory appeal dated 11.01.2019 as provided under the Aircraft Rules, before the third respondent. Though the petitioner was called to appear for personal hearing on 08.04.2019, he was not given an opportunity to present his case, instead he was only asked to briefly state as to what happened and thereafter, by order dated 24.04.2019, the third respondent dismissed the statutory appeal dated 11.01.2019, wherein it was wrongly mentioned that the privileges of the pilot license of the petitioner has been suspended for a period of three years with effect from 24.10.2018, whereas the order of the first respondent stated that the license has been suspended for a period of three years from 12.10.2018.

With the above background, the present writ petition has been filed by the petitioner with the prayer as already stated supra.

9. Denying the averments made in the writ petition, a counter affidavit has been filed on behalf of the respondents 1 to 3, in which it is stated that the aircraft in question had hit the Instrument Landing System (in short, 'ILS') Antenna and the top of the boundary wall while taking off from the Trichy Airport by the petitioner herein. At 01.24 IST, on the date of occurrence, ATC informed the crew that they crossed the boundary wall at low altitude and subsequently after approximately 7 minutes, ie., at about 01.31 IST, ATC informed that the ILS Antenna and boundary wall have been damaged. Even thereafter, the flight crew continued the flight with damaged aircraft structure compromised the safety of aircraft and its occupants.

10. The counter affidavit further proceeds to state that during the take off roll, the aircraft decelerated and its thrust had reduced. However, the cockpit crew failed to realise that the thrust had reduced and continued the takeoff with reduced thrust without taking any corrective action. Adding further, it is stated that during lift off, the crew could not assess the impact with the ILS antenna and the boundary wall. Though they were informed by the ATC that the aircraft had hit the ILS antenna and the boundary wall during lift off, the cockpit crew could not realise the extent of damage to the aircraft and they failed to take any immediate action to address the unsafe situation.

11. It is also stated in the counter affidavit that the seat recline locking and travel movement mechanism of both the seats of the pilots were checked by the Aircraft Maintenance Engineer on 12.10.2018 at Mumbai in the presence of the officials attached to the Director General of Civil Aviation (in short, 'DGCA') and it was found that they were working normally and there was no abnormality observed during the functional test.



However, the petitioner failed to monitor the engine thrust during the take-off roll and to take corrective action.

12. In respect of the averment made by the petitioner describing the slight shake of the aircraft during take-off as usual one which pilots feel at times due to the runway surface conditions and also due to the rotation of the nose wheel until the gears are retracted, it is stated in the counter affidavit that the shake was actually due to the aircraft hitting the boundary wall which is only 8.5 feet high. It is also stated that immediately after the boundary wall, there is a State Highway on which heavy transport vehicles are running. Thus, the aircraft had a providential escape as it might have collided on to the boundary wall or hit a heavy vehicle on the State Highway which is just outside the airport boundary wall.

13. It is further stated in the counter affidavit that the preliminary investigation was carried out by the DGCA and the statement of the petitioner was recorded on 22.10.2018. The inspection of aircraft at Mumbai revealed that the bottom portion of aircraft suffered multiple damages, coupled with dent and scratches on aft cargo portion and the same have occurred at Trichy itself during take-off due to the aircraft hitting the ILS antenna and the airport boundary wall. Thus, such damages cannot occur to the aircraft and other items without any collision. However, the pilots failed to notice the same and thereafter ignored it and continued towards destination, thereby putting safety of aircraft and its occupants at risk, according to these respondents.

14. It is also stated in the counter affidavit that the fifth respondent / Aircraft Accident Investigation Board (AAIB) has classified the occurrence as an accident under Rule 11(1) of the Aircraft (Accidents and Incidents Investigation) Rules, 2017, vide order dated 14.10.2018. Based on the findings rendered in the preliminary investigation, the pilot license of the petitioner by order dated 24.10.2018 was suspended in accordance with Rule 19 (3)(a) of the Aircraft Rules, 1937 for the violation and jeopardizing the safety of the aircraft and its occupants. Challenging the same, the petitioner submitted an appeal to the second respondent under Rule 3B of the Aircraft Rules, 1937. He was accorded personal hearing on 04.12.2018 and thereafter, his appeal was dismissed as devoid of merits on 11.12.2018. Similarly, after providing an opportunity of personal hearing to the petitioner, his further appeal was also dismissed on 24.04.2019 by the third respondent. Thus, there is no illegality or impropriety in the orders so passed by these respondent authorities and the same warrant no interference at the hands of this court.



15. Adding further, the fifth respondent in its counter affidavit, stated that due to the impact from the boundary wall and ILS antenna, the aircraft received substantial damage which ripped over the aircraft belly and Engine-2 was also damaged. The decision of the crew to continue the flight to Dubai instead of landing back at Trichy with damaged aircraft structure, compromised the safety of aircraft and its occupants. It is also stated that the investigation is time consuming process as many organisations are involved in the same and hence, there is no delay on the part of investigation. It is further stated that as per Rule 17 to be read in conjunction with Rule 3 of the Aircraft (Investigation of Accidents and Incidents) Rules, 2017, investigation details cannot be disclosed. Therefore, this respondent sought to dismiss this writ petition.

16. A counter affidavit has been filed by the fourth respondent, in which, relying upon Clause 28 of the terms and conditions of appointment, it is stated that since the petitioner's license was suspended by the regulatory authority, the fourth respondent cannot utilise the services of the petitioner; and that, pay and other allowances can be paid only based on the number of hours of flying and in the absence of any flying, the fourth respondent cannot make any payment or grant allowances for the period the petitioner incapacitated himself from flying due to suspension of his license by the regulatory authority. Thus, according to this respondent, the petitioner's claim to reinstate him with all financial and other attendant service benefits is not tenable.

17. The learned counsel for the petitioner has submitted that the cause of the occurrence is entirely due to the collapse of the PIC seat (backrest recline), which happened at high speed during the takeoff roll, thereby the pilot flying, lost his balance and both his left and right hand were up in the air. In view of the same, the petitioner swiftly handed over the controls to the First Officer and only after getting back balance and readjusting the seat, on seeing outside, he came to know that the flight was close to the end of the runway and thereafter he took controls and rotated. It is also submitted that the flight crew of IX611 had all the aircraft lights on at the time of takeoff. When the petitioner or his First Officer had no visual cues of the localizer antenna and the boundary wall at the time of rotation, it was only the ATC's assessment that the aircraft might have hit the localizer antenna and boundary wall. It is further submitted that around two hours into the flight, when the ATC informed that an aircraft antenna was found on the ground, the cockpit crew asked the ATC about the type of aircraft antenna which was found in the ground as informed by them, so that the cockpit crew can check if it was of their aircraft. Since no reply was received and that, the



cockpit crew did not suspect any structural damage to the aircraft, they decided to continue the flight towards destination, relying on normal functioning of systems.

18. That apart, the learned counsel for the petitioner has submitted that the flight crew did not suspect any structural damage to the aircraft, but as a precautionary measure and keeping in mind the safety of the passengers, they tried to ascertain as to whether any damage to the aircraft had occurred after the ATC informed about damage to the localizer antenna and peripheral wall. It is the further submission of the learned counsel that as soon as the flight crew was informed about these damages, they followed the techniques mentioned in Annexures 2 and 3 to the Flight Crew Training Manual (in short, 'FCTM') which has been developed and recommended by Boeing. The flight crew did not suspect tail strike, since they did not feel any of the three conditions that there can be an indication of tail strike during rotation as mentioned in Annexure 4 of the FCTM. They had a thorough understanding of the airplane system operations which enabled them to determine that the airplane systems were operating normally. According to them, there was no unusual flight deck indication; there was no damage to the aircraft; and the handling characteristics were also determined to be normal. Further, Annexures 5 and 6 of the FCTM outline the procedures to be followed in case of a suspected tyre failure and as per the same, the crew decided to continue to the destination, as there was no indication about any damage to the aircraft. However, as a precautionary and safety measure, the crew selected auto brakes at lower settings during their landing into Mumbai, as stated in Page 8.28 of the FCTM, as there was a possibility of nose wheel damage. Since all checks revealed normal operations, the flight crew determined that continuing the flight will have no adverse effect with regard to the safety of the passengers.

19. The learned counsel for the petitioner has also submitted that the petitioner was not issued with any show cause notice or asked to explain the charges alleged against him at any point of time prior to the issuance of the impugned order of the first respondent. The opportunity of personal hearing provided to the petitioner during the appellate stage was only an empty formality. Thus, the statutory rules and the principles of natural justice stood violated and the entire career of the petitioner has been affected by such action of the respondents. It is also pointed out by the learned counsel that the report of the cockpit crew to demonstrate the seat backrest recline abnormality submitted to the fifth respondent and the videograph of the same, have not been considered at all before taking a decision to suspend his pilot license by the DGCA. It is further alleged that the first respondent suspended the pilot license of

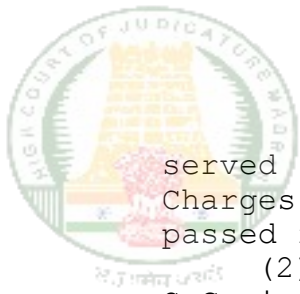


the petitioner even before any investigation conducted into the incident by the fifth respondent and without affording any opportunity to the petitioner to explain his response to the violations stated. Under Rule 5 of the Aircraft (Investigation of Accidents and Incidents) Rules, 2017, it is mandatory that an investigation be conducted into the causes of the accident and only after such mandatory investigation, the DGCA can step in, to take any further action, but unfortunately such a mandatory investigation was never done in the present case.

20. It has been submitted by the learned counsel for the petitioner that the first respondent ought not to have passed the order dated 24.10.2018 relying upon the preliminary enquiry conducted by the DGCA's officials at Mumbai. The order of the third respondent reveals only about the inspection of the flight by some DGCA staff at Mumbai and not the mandatory investigation done in accordance with Rule 5 of the Aircraft (Investigation of Accidents and Incidents) Rules, 2017. While the factual aspects raised in the grounds of appeal submitted to both the respondents 2 and 3 require consideration, both of them miserably failed to consider the same. The second respondent merely reproduced the order passed by the first respondent and the third respondent also committed the same error and that, the orders passed by them are non-speaking orders. Therefore, the action of the first respondent without even providing an opportunity to the petitioner to explain his stand about the allegation levelled against him and straight away inflicting punishment upon him, without following due process of law, as also confirmed by the second and third respondents, jeopardises the petitioner's career, life and earning capacity for the rest of his life.

21. The learned counsel for the petitioner has ultimately submitted that because of suspension of license, the petitioner cannot get any other employment even in any private sector and his future is completely wiped out and the entire family is suffering for livelihood, as he is the sole bread winner of the family; and that, the petitioner is unable to pay his wife's college fees. Adding further, the learned counsel submitted that the prolonged suspension of the petitioner without investigation has not only affected his professional life, but also crushed his personal life due to financial crisis. Stating so, the learned counsel relied upon the following decisions to substantiate his contention that the prolonged suspension vitiates the proceedings initiated against the petitioner:

(1) Ajay Kumar Chowdry vs. UOI, [(2015) 7 SCC 291], in which, the supreme court was of the view that the currency of suspension order should not extend beyond three months if within this period, the Memorandum of Charges / Charge Sheet is not



served on the delinquent officer, and if Memorandum of Charges / Charge Sheet is served, a reasoned order must be passed for extension of suspension.

(2) The Deputy Inspector General of Police, Coimbatore vs. S. Govindaraj, [2012(1) CTC 124], wherein, it was held by the Division Bench of this court that the prolonged suspension without extracting any work from the employee and paying the subsistence allowance was wasting the Government money and therefore, such employees who are facing disciplinary proceedings shall be reinstated and they may be posted in a non-sensitive post, so as to avoid further complications in continuing the disciplinary proceedings.

(3) G. Anil Kumar vs. Tamil Nadu Trade Promotion Organisation and Ors., [2011 W.L.R. 1127] in which, it was observed by this court that in the absence of review of an order of suspension in terms of relevant rules, as statutorily required to be done, the order of suspension is not valid after a period of 90 days from the date on which it was issued.

With these submissions, the learned counsel for the petitioner has prayed for setting aside the impugned orders with a further direction to the respondents to reinstate the petitioner in service with all monetary and attendant service benefits.

22. Reiterating the averments made in the counter affidavit and also referring to the legal provisions, the learned Central Government Standing Counsel appearing for the respondents 1, 3 and 5 submitted that the inspection report clearly indicated the damage caused to the aircraft and aerodrome boundary wall and that, the petitioner failed to take corrective measures to ensure the safety of passengers and aircraft. Therefore, the first respondent passed the order suspending the pilot license of the petitioner for a period of three years and the same was also confirmed by the appellate authorities, which do not call for any interference by this court.

23. The learned counsel for the fifth respondent made his submission in line with the counter affidavit filed by the fifth respondent.

24. This court considered the submissions made by the learned counsel appearing for all the parties and also perused the materials available on record.

25. The issue involved in this writ petition pertains to the occurrence that took place on 12.10.2018, during which day, the flight which took off from the Trichy Airport, was flying very low during immediate take off by the petitioner, which led to damaging the ILS antenna and the boundary wall of the airport,



resulting in structural damage to the flight in question. Consequent to the same, the pilot license of the petitioner, ATPL No.7192 was suspended for a period of three years from the date of accident.

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26. According to the petitioner, the cause of incident is entirely due to the collapse of the backrest recline (seat of the PIC), which happened at high speed during the takeoff roll, thereby the pilot flying, lost his balance and both his left and right hand were up in the air. In view of the same, he swiftly handed over the controls to the First Officer and only after getting back balance and readjusting the seat, on seeing outside, he came to know that the flight was close to the end of the runway and thereafter he took controls and rotated. In this connection, it is specifically submitted that the report of the cockpit crew to demonstrate the seat backrest recline abnormality submitted to the fifth respondent and the video of the same, have not been considered by the respondent authorities. It is also submitted that there was no indication or restlessness among the passengers about any untoward incident and the petitioner did not hear any unusual noise or vibration of the aircraft hitting any object at the time of take off and that, after taking inputs from all and ensuring the optimum aircraft system parameters, the petitioner decided to continue the flight for destination. However, he was issued with the order of the first respondent suspending his pilot license for a period of three years for causing the said incident. It is the principal grievance of the petitioner that he was not issued with any show cause notice nor provided any opportunity to defend his case, before taking a decision of suspending his pilot license; and he was not given any opportunity of hearing by either of the respondent authorities; and there was inordinate delay in completion of the investigation, which absolutely ruined the professional life of the petitioner, besides causing injury to his personal life.

27. On the other hand, as regards the issue of collapse of seat backrest recline in respect of both seats of the pilots, it is stated by the contesting respondent that it was checked by the Aircraft Maintenance Engineer on 12.10.2018 at Mumbai in the presence of the DGCA officials and it was found that there was no abnormality observed during functional test and the same was working normal. Whereas, the petitioner failed to monitor the engine thrust during the take-off roll and to take corrective action. It is also stated that the cockpit crew of AI-611 was immediately informed by ATC while clearing the airport boundary wall and checking for all operations, that the aircraft was flying too low and subsequently it was informed that the aircraft had hit the ILS antenna and the aerodrome boundary wall. But the petitioner failed to realise the gravity of the



situation and neglected to take immediate action and that, continued the flight for destination thereby, putting the safety of aircraft and its occupants at risk. That apart, according to the contesting respondent, after providing reasonable opportunity to the petitioner, the appellate authorities have confirmed the order of suspension of license passed by the original authority, which do not require any interference by this court.

28.It is seen from the order passed by the first respondent dated 24.10.2018 that the preliminary enquiries revealed the following three shortcomings:

i)The aircraft hit the ILS antenna and top of boundary wall while taking-off from Trichy airport.

ii)The flight crew continued the flight in spite of ATC informing them about aircraft damaging localizer antenna and the boundary wall of airport.

iii)The decision of flight crew to continue the flight with damaged aircraft structure compromised the safety of aircraft and its occupants.

In view of the same, the privileges of the pilot license held by the petitioner ATPL No.7192 was suspended for a period of three years from the date of accident. The said order of the first respondent was challenged by the petitioner by filing appeal before the second respondent. By order dated 11.12.2018, the second respondent dismissed the said appeal reiterating the same findings as made by the first respondent. Aggrieved over the same, the petitioner went on further appeal before the third respondent. Having found that while taking off, the petitioner had delayed the rotation, which led to the after lift of the aircraft hitting the localizer and airport boundary wall causing structural damage to the aircraft, the third respondent was of the view that the argument of the petitioner that the incident happened because the seat collapsed, is not tenable as inspection by DGCA team confirmed that the seat was normal; that, the PIC continued the flight despite being informed by ATC regarding damages to the airport boundary and breaking of localizer antenna; that inspite of knowing the damage, the petitioner chose to rely on aircraft parameters, continued to destination thereby jeopardizing the safety of aircraft and its occupants and he was hence, guilty of grave error. Ultimately, the third respondent dismissed the appeal filed by the petitioner, by order dated 24.04.2019. All the three orders are sought to be quashed in this writ petition.

29.Though elaborate submissions were made on both sides, this court is not inclined to delve into the same qua cause(s) of the incident happened, as the same requires technical expertise. At the same time, it is to be noted that only based



on the preliminary enquiry conducted by the fifth respondent, the first respondent passed the order suspending the pilot license of the petitioner for a period of three years, for causing the alleged incident. Before passing such an order, the petitioner was not issued with any show cause notice to explain as to why his pilot license should not be suspended for the alleged incident. The preliminary investigation report, based on which, the petitioner's pilot license was suspended for a period of three years, was not served on him. As per Clause 12.4.5 of DGCA Enforcement policy and procedures Manual-second Edition, 2018, the petitioner ought to have been issued with show cause notice along with a copy of the investigation report, before taking such a decision. Further, it is to be pointed out that the provisions of the Aircraft (Accidents and Incidents Investigation) Rules, 2017 mandates that investigation be conducted to determine the probable cause(s) and contributory factor(s) leading to the accident / incident and make recommendations to avoid re-occurrence of the same in future. The Director General of AAIB, by order dated 14.10.2018, directed the Investigator-in-charge to complete the enquiry and submit the report to the fifth respondent within a period of ten months from the date of issuance of the said order. However, the investigation so ordered was not done in a time bound manner. But the petitioner was inflicted with the punishment of suspension of pilot license for a period of three years from the date of occurrence, that too, without issuing any show cause notice to him and hence, the same cannot be countenanced. At the same time, the gravity of the charges alleged against the petitioner cannot be lost sight by this court.

30.Now, it is an admitted fact that the petitioner has already undergone the punishment of suspension of pilot license for a period of three years from 12.10.2018, due to which, he is said to have been suffered with untold mental agony and financial crisis.

31.At this juncture, it is note worthy to refer to the communication of the Assistant Director Air Safety, Director General of Civil Aviation, Govt. of India, New Delhi, produced by the learned standing counsel appearing for the respondents, who received it through e-mail on 16.09.2021. The contents of the said communication would run thus:

"The administrative action was taken against Capt.D.Ganeshbabu, ATPL No.7192 (petitioner) in view of his involvement in the accident and his pilot licence was suspended for a period of three years from the date of accident i.e., 12.10.2018 vide DGCA-15020/7/2018-DAS dated 24.10.2018.

No further administrative action is required in the matter by DGCA. However, M/s.AIXL is required to



submit the licence of the petitioner to DGCA for endorsement of the suspension period on the licence for record purpose."

32. Thus, having regard to the aforesaid admitted fact coupled with the communication sent by the Assistant Director, Air Safety Directorate, DGCA, New Delhi, on 16.09.2021, wherein, it was stated that no further administrative action is required in the case of the petitioner, this court is of the opinion that there can be no impediment for the petitioner to have his employment with the respondent company. In such view of the matter, without delving deep into the issue at hand, the fourth respondent company is directed to pass appropriate orders, with regard to the claim of the petitioner seeking reinstatement, within a period of four weeks from the date of receipt of a copy of this order.

33. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rk

To

1. The Joint Director General
Office of the Director General of Civil Aviation,
Civil Aviation Department,
Government of India,
New Delhi - 110 003.
2. The Director General of Civil Aviation,
Office of the Director General of Civil Aviation,
Civil Aviation Department,
Government of India,
New Delhi - 110 003.
3. The Secretary to Government of India
Ministry of Civil Aviation,
B Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi 110 003.



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4. Air India Express Limited
1st Floor, Old Operations Building,
Air India Complex,
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5. The Director General
Aircraft Accidents Investigation Board (AAIB)
Rajiv Gandhi Bhawan,
Safdarjung Airport, New Delhi - 110 003.

Copy To:

The Assistant Director,
Air Safety Directorate,
DGCA, New Delhi.

+1cc to Mr.N.G.R.Prasad, Advocate, S.R.No.55658
+1cc to Mr.V.Ashok Kumar, Advocate, S.R.No.55657

WP No. 14915 of 2019

SSI(CO)
SB(08/12/2021)