



W.P.No.26176 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26176 of 2016

R.Munusamy

... Petitioner

Vs.

1.Air India Limited

Represented by the Chairman and Managing Director,
Airlines House,
113, Gurudwara Rakabganj Road,
New Delhi 110 001.

2.The Management,

Represented by the Regional Manager,
Air India Limited,
Marshall Road, Egmore,
Chennai 600 008.

3.The Personnel Manager (HRD)

Air India Ltd.,
Unity Complex, Pallavaram Cantonment,
Chennai 600 043.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records culminating in the scheme passed by the 3rd respondent on 04.04.2014 and quashing Clause 5 of the said scheme and consequently directing the respondents to reinstate and regularize the petitioner services along with the



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arrears in salary and other related benefits in compliance with the common order dated 15.05.1997 passed in I.D.No.39 of 1991.

For Petitioner : Mr.V.Perumal

For Respondents : Mr.K.Srinivasa Murthy

ORDER

The relief sought for in the present writ petition is to call for the records culminating in the scheme passed by the 3rd respondent on 04.04.2014 and quashing Clause 5 of the said scheme and consequently directing the respondents to reinstate and regularize the petitioner services along with the arrears in salary and other related benefits in compliance with the common order dated 15.05.1997 passed in I.D.No.39 of 1991.

2. The petitioner states that he was employed as casual employee for a period of 110 days and after completion of the said period he was terminated. The petitioner was aggrieved by the termination of Casual Workmen after expiry of 110 days, the Casual Workers of the respondents raised a dispute in I.D.Nos.22 and 39 of 1991 over their termination and for regularisation. An Award was passed to regularise the services of the



workmen involved therein. Incidentally, an observation was made to evolve a Scheme for workmen, who were not parties to the Award.

3. The petitioner states that the Award passed by the Labour court was challenged before this Court. The matter stood resolved between the respondents and the workers, who raised the dispute. Thus, the writ petition was withdrawn. The petitioner filed a writ petition seeking a direction, to direct the respondents to frame a Scheme. The writ petition was dismissed but the writ appeals filed were allowed by the Division Bench with the direction to frame a Scheme. The Special Leave Petition filed by the respondents was also dismissed. Thereafter, the impugned Scheme was framed by the 3rd respondent on 04.04.2014, which is now challenged by the writ petitioner.

4. Regarding the claim of the writ petitioner this Court has considered the similar relief sought for by the petitioners in a batch of writ petitions in ***W.P.Nos.21685 of 2016 [A.Kamalakaran and Others Vs. The Management of Air India Limited], etc. and batch***, which was decided by this Court on 17.03.2017.



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5. The relevant paragraphs of the said order are extracted hereunder:

7.The Government of India has pumped in enormous amount of money to keep the respondents flying. Even the very recent CAG Report indicates the pitiable condition of the respondents. Suffice it to state that as seen from the recent news paper reports, the respondents are not out of the woods despite the money pumped in by the Central Government.

8.On ground, substantial changes have come. The competition has become more and thus the monopoly has been lost. More foreign fliers have come into the field. The respondents are playing a restricted role now. The demand for quality has become louder. Changes have been brought with the avowed object of bringing a better management and quality of service. Such changes brought forth are not called in question. Even as of now, there is a huge surplus staff.

9.The power of judicial review over a Scheme is very limited. Such a Scheme has to be



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seen in its own context which involves both public and private interest. The respondents are admittedly a public limited concern. The observations made by the Division Bench has to be seen in the context of framing the Scheme. There is no material to hold that the petitioners would lose their seniority in the employment exchange. In this context, the counter affidavit filed by the Assistant Director of Employment Exchange, in W.P.No.15915 of 1999 etc., batch, as mentioned in the counter affidavit of the respondents, is required to be seen and the same reads as under:

"Placement in daily rated vacancies, the registration index cards of the registrants will not be removed from the Live Registers for a period of two years. Candidates can get their original seniority if they produce the ousting order at the employment exchange within a period of 18 months. Even in cases of placement in temporary/permanent vacancies on regular time scale of



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pay, the index cards of the registrants will be restored back to its original seniority provided the candidates report back to the employment exchange within 18 months from the date of their ousting from service."

10.The Division Bench did not have the occasion to go into other aspects. There are subsequent developments that have occurred after the decision rendered. It is not as if the respondents have not framed the Scheme. They have taken into consideration the relevant materials while doing so. From the counter affidavit filed by the respondents, it appears that the attempt to put the administration on track appears to be a Herculean task. The decision of the Division Bench cannot be read like a statute. Thus it has to be seen in the context of the facts governing. The Scheme framed for the erstwhile Indian Airlines on the same line as that of the impugned one having been approved by the Apex Court also deserves to be noted. Thus this Court does not find any illegality in the impugned Scheme. The order of the Division Bench does



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not impinge upon the administrative measures taken by the respondents in consultation with the Government of India as it involves larger issues. The decision to form subsidiaries and hiving off certain works and outsourcing cannot be held to be arbitrary or illegal and in any case, there is no challenge to it.

11. Thus, for the reasons aforesaid, this Court does not find any illegality in the impugned Scheme framed by the respondents, warranting interference. Accordingly, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.”

6. In view of the orders passed by this Court in the case (cited *supra*), the present Writ Petition is also dismissed on the same line. Consequently, connected Miscellaneous Petition is closed. However, there shall be no orders as to costs.

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Jeni

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Speaking order

To

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113, Gurudwara Rakabganj Road,
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S.M.SUBRAMANIAM, J.

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