



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

% **Reserved on: 26th May 2022**

Pronounced on: 18th August 2022

+ **W.P. (C) 5286/2020**

ALL INDIA AIRCRAFT ENGINEERS ASSOCIATION & ANR

..... Petitioners

Through: Ms. Meenakshi Arora, Sr.
Advocate with Mr. Aditya Shankar
Prasad, Mr. Sameer Kumar, Mr.
Shah Rukh Ahmad and Mr.
Mandeep Baisala, Advocates

versus

AIR INDIA ENGINEERING SERVICES LIMITED & ANR

..... Respondents

Through: Mr. A.P. Singh, Ms. Akanksha Das
and Mr. Shreyansh Rathi,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant Civil Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of a Writ in the nature of *mandamus* or any other appropriate writ to direct the Respondents to implement and enforce the “Staff Employment Notice”, dated 08.12.2015



and Appointment Letter dated 06.03.2017 to the extent it offered to the eligible/selected candidates appointing them to the post of “Aircraft Engineer”, in the pay scale of Rs. 24,900-50,500 in E-3 Grade, with protection of pay, on acquiring the Directorate General of Civil Aviation (hereinafter referred to as the “DGCA”) license in the respective categories with all consequential benefits from the respective date of completing the one-year training and acquiring the Aircraft Maintenance Engineer (hereinafter referred to as the “AME”) License by the candidates.

FACTUAL MATRIX

2. The matter has arisen out of the facts as detailed hereunder:
 - a. Petitioner No. 1 is a registered Trade Union under the Trade Union Act of 1926 in Hyderabad and Petitioner no. 2 is a registered association at Mumbai. The Petitioners Association represent the licensed/Approved AMEs employed with the Respondent No. 1, a subsidiary of Respondent No. 2.
 - b. On 08.12.2015, Respondent No. 1 issued the Staff Employment Notice Ref: AIESL/COP/287 inviting applications from serving permanent employees of Air India Engineering Services Limited (hereinafter referred to as the “AIESL”) for the post of AME.



- c. As per the qualifications prescribed therein, it was a pre-requisite for the candidates to have a DGCA issued Basic Aircraft Maintenance Engineer's License (hereinafter referred to as the "BAMEL"). As such, the members of the Petitioner Associations applied for the recruitment as they were already holding BAMEL.
- d. The Respondent No. 1 published the Results whereby the members of the Petitioner-Associations were selected. On 6.3.2017, the selected candidates were issued an Appointment letter appointing them as Trainee Aircraft Maintenance Engineer.
- e. On 11.7.2017, in view of the revision in the licensing policy by the DGCA, the Respondent No. 1 circulated a letter amending the terms of appointment, whereby the candidates were required to undergo necessary training courses in order to obtain Limited Scope Approval (hereinafter referred to as the "LSA").
- f. On 02.11.2018, the Respondent No.1 published a list of Trainee AMEs who had successfully completed the necessary training. The Respondent No.1 appointed them in E-2 grade as Deputy Aircraft Engineer instead of appointing them as AME in E-3 grade.



- g. Aggrieved by the said action of the Respondent No. 1, the petitioners have approached this Court by way of the instant writ petition.

SUBMISSIONS

3. Learned counsels for the parties have raised their contentions and submissions in writing as well as through oral submissions during the proceedings. In response to the writ petition, counter affidavit has been filed by the Respondent No. 1 and rejoinder thereto has been filed by the Petitioners. Written Submissions have also been filed by the respective parties. The entirety of the pleadings on the record have been perused and the submissions made therein by the parties are detailed hereunder:

Petitioners' Submissions

4. Ms. Meenakshi Arora, learned Senior Advocate appearing on behalf of the Petitioners submitted that on successful completion of training imparted by the Respondent No. 1 as mentioned in the "Staff Employment Notice" dated 08.12.2015, the successful candidates were placed in E-2 grade as Dy. Aircraft Engineer. It is submitted that after the completion of mandatory one year training and having acquired DGCA license as mentioned in the initial "Staff Employment Notice" dated 08.12.2015, the concerned employees sought appointment to E-3 Grade, to the post of Aircraft Engineer through Petitioners' Association.

5. It is submitted that, however, even after regular correspondence with the Respondents, no reply was received in this regard though in the



meetings with the association, it was orally assured that the Company is looking into the issue in its board meetings and things would be resolved soon. However, it is stated that despite several correspondences, not a single written reply or assurance has been given by the Respondent No.1.

6. It is further submitted that the Respondents did not appoint the selected candidates to the post of “Aircraft Engineer” but made the candidates work in lower grade, thus depriving the candidates of their legitimate rights/benefits promised as per the Advertisement which had no whisper of the post of Deputy Aircraft Engineer.

7. It is submitted that the case of the Petitioner is related to appointment of the selected candidates to the post of “Aircraft Engineer” whereas the Respondents have falsely based their entire case on Promotion. It is stated that a post for promotion is not advertised rather posts/vacancies for the purpose of appointment are advertised. In the instant case the advertisement was for appointment to the post of Aircraft Engineer.

8. It is also submitted that through the Staff Employment Notice dated 08.12.2015, the applications were invited to the post of “Aircraft Maintenance Engineer” as also to the Selection Procedure, the relevant part of which reads as under:-

“... The selected candidates would retain their existing designation/s in their existing cadre till such time they are absorbed as Aircraft Engineer ...”



9. The selection procedure mentioned that the selected candidates would retain their existing designations in their existing cadre till such time they are absorbed as Aircraft Engineer. Also, the letter of appointment assured that on completion of one year training period and acquiring AME license from DGCA, candidates would be appointed as “Aircraft Maintenance Engineer”. The action of Respondents is absolutely contrary to the terms of the Staff Employee Notice (Aircraft Maintenance Engineer) Ref: AIESL./COP/287 dated 08.12.2015 & subsequent Appointment – Trainee Aircraft Maintenance Engineer dated 06.03.2017.

10. It is further stated that the actions of the Respondents are not only in violation of the Employment Notice which was categorically for appointment of the Aircraft Maintenance Engineers but has also jeopardised their prospects for future promotion.

11. It is stated that even after long time span having been passed from the date of notification and despite fulfilling all the terms and conditions of the appointment as Aircraft Engineers, the recruits have not been appointed to the post of Aircraft Engineer, while on the other hand, to overcome the shortage of the Aircraft Engineers, the Respondent No.1 Company has been hiring the retirees/equivalent qualified persons from the open market. It is stated that such decisions have been impacting even the organizational interests of the Respondent No.1.

12. It is submitted that the actions of the Respondents have already caused undue delay in career progression of the members of the



Petitioners and any further delay would lead to denial of the rightful benefits to which the members of the petitioners are, in equity, entitled.

13. In light of the aforesaid, it is prayed that the instant petition be allowed, and the Respondents be directed to appoint the eligible candidates to the position of Aircraft Engineer (E3 Grade) with all consequential benefits from the respective date of completing one year training programme and acquiring the AME License by the candidates.

Respondents' Submissions

14. Learned counsel for the Respondents submitted that the present Petition has been filed by the Petitioners Association, alleging non-promotion of its members from Deputy Aircraft Engineers (E-2 Grade) to Aircraft Engineers (E-3 Grade) based on the Staff Employment Notice dated 08.12.2015 and Appointment Letter dated 06.03.2017.

15. It is submitted that the DGCA, as per the provisions of the Aircraft Act, 1934 and the Aircraft Rules, 1937, issues Civil Aviation Requirements (hereinafter referred to as the "CAR") on various aspects of detailed requirements and compliance procedures for harmonizing and standardizing the Indian provisions with the International Civil Aviation Organizations directives. Under Section 2-Airworthiness, SERIES L-Aircraft Maintenance Engineer – Licensing, the CAR-66 Initial Issue Rev. 0 titled "Licensing of Aircraft Maintenance Engineers" was issued by the DGCA under Rule 61 of the Aircraft Rules, 1937 on 11.11.2011, providing for a specialized licensing procedure for the AME certification,



for servicing and maintenance of aircraft. Only those institutes approved by the DGCA can impart the training required for applying for the AME licenses.

16. It is submitted that due to the amendments in the licensing requirements under CAR-66 and the maintenance requirements under CAR-145 and to ensure compliance with the same, the aforesaid Letter dated 06.03.2017 has been amended *vide* Letter dated 11.07.2017.

17. It is submitted that due to the amendments in the licensing requirements under CAR-66 and the maintenance requirements under CAR-145, the members of the Petitioner do not meet the qualification requirements as laid down in the CAR for the said post of Aircraft Engineers.

18. It is submitted that the purpose of issuance of the CAR-66 was to harmonize the Indian requirements for licensing of AME with the international requirements (EASA Part 66), amendment of the Aircraft Rules, 1937, Gazette Notification GSR 1001(E) dated 22.12.2010. The CAR-66 Initial Issue Rev. 0 was made effective from 01.01.2012. The CAR-66 provided for a specialized licencing procedure for AME certification for servicing and maintenance of Aircraft and only those institutes approved by the DGCA can impart the training required for the applying for the AME licences.

19. It is submitted that CAR-66 Issue I has been replaced with CAR-66 Issue II, which was issued on 04.04.2016. The CAR 66 Issue II made



changes to the training, examination, knowledge, and experience requirements, such as amendment of Appendix 1 related to the Basic knowledge requirements, revision of Appendix 2 relating to Basic Examination Standards and amendment of Appendix 3, wherein, practical elements requirements to be covered during type training was added. Further, Procedure for Licensing of AME under CAR-66 (Section- B) was removed and added to Airworthiness Procedure Manual (Chapter- 17). However, the Aircraft Rules, 1937 were again amended vide Gazette Notification GSR (E) dated 16.09.2016, whereby, major changes were made to Rule 61 of the Aircraft Rules, 1937. This resulted in changes of the qualifications and experience requirements and the scope and privileges of other categories as well and required mandatory clearance of the conditions and the manners specified by DGCA. Category A Licence was no more required to be endorsed with any type of aircraft. These amendments were, thereafter, included in the CAR- 66 requirements vide CAR-66 Issue II Revision 1 and in CAR-145 requirements vide CAR-145 Issue II Revision 3 dated 14.06.2017. The Chapter 17 of the Airworthiness Procedure Manual was revised vide Issue II Revision 4 issued in the month of September, 2017.

20. It is submitted that at present, CAR-66 Issue II Revision 7, dated 07.02.2022 is applicable. Section A of the CAR-66 provides the 'Technical Requirements', wherein Sub Part A provides for the requirements relating to the AME's Licence Aeroplanes and Helicopters. Under CAR.66.A.03, the AME Licences have been categorized as Category A, Category B1, Category B2, Category B3 and Category C.



The A and B1 categories are further subcategorized, based on combinations of aeroplanes, helicopters, turbines, and piston engines. Under CAR-66.A.05, the Aircrafts are also classified into Group 1, Group 2 and Group 3 for the purposes of the ratings on the AME Licences. Each of the categorizations relate to a specific scope of service that can be provided by the Licence Holders. Each of these categories of licences have their specific requirements and qualifications, which are to be fulfilled for the purposes of obtaining the said AME Licence as well as keeping the same current and for their renewal.

21. The CAR-66 are made applicable together with CAR M relating to Continuing Airworthiness Requirements, CAR-145 relating to Approval of Maintenance Organization and CAR-147 relating to Approved Maintenance Training Organisation. CAR-145 requires that the maintenance of aircraft should be done by appropriate type rated certified staff, qualified in accordance with DGCA Licensing requirements. Therefore, it is imperative that for the validity of certification authorization, it should also comply with the licensing requirement. It becomes the responsibility of the Maintenance Organizations to take all necessary action to ensure that both CAR-66 and CAR-145 always remain compliant with each other. The Answering Respondent, under the CAR-145.A.70, is required to keep a Maintenance Organisation Exposition (hereinafter referred to as the 'MOE') which is a document containing the material specifying the scope of work deemed to constitute approval and showing how the Maintenance Organisation intends to comply with CAR-145. This includes the list of certifying staff, with their



scope of approval. The said MOE is to be amended as necessary to remain an up-to-date description of the Maintenance Organisation and same shall be approved by DGCA. Therefore, upon the aforesaid amendments, the Answering Respondent had submitted the revised MOE to DGCA vide MOE Issue II, Revision 0 on 23.03.2017. The revised MOE Issue II, Revision 0 was approved by DGCA on 30.05.2017. Therefore, AME Licence Holder would now have to fulfil the revised requirements to keep hold of his/her Licences.

22. It is submitted that along with CAR-66 and after the issuance of the AME Licence, under the CAR-145, there are various training and experience requirements to be provided by the Maintenance Organizations to its personnel to maintain the competency of its personnel. An AME Licence Holder as well as the Maintenance Organizations would have to go through continuous trainings and examinations for the purposes of fulfilling the CAR. The continuous and rigorous training is due to nature of the job, requiring every Aircraft to be certified as 'Airworthy' by the AME Licence Holder before being allowed to operate and ensuring that every such AME Licence Holder has the high degree of technical knowledge, competency and proficiency required to undertake such sophisticated tasks. Further, there have been continuous amendments and changes made to the overall CAR requirements and the relevant Manuals and Procedures. It is submitted that the aforesaid CAR requirements are to be read with, and not against, the recommendations provided by the Justice Dharmadhikari Committee



(hereinafter referred to as the “JDC”) Reports to ensure that the competency of the personnel is duly reflected in their appointed Cadre.

23. It is submitted that the merger of the erstwhile Air India Limited (Wide Body Group) and Indian Airlines Limited (Narrow Body Group) and the subsequent hiving off of subsidiaries has been a very complex and arduous process. The integration of manpower and their fitment was even more complex. The JDC did a herculean task of developing the broad framework of integration but subsequent to its implementation, there were several representations across all the cadres in both the erstwhile Air India (the parent company) and the subsidiaries like AIESL. Wherever there was a genuine ground for the representation, the same were addressed by carrying out necessary amendments/ anomaly corrections with the approval of the competent authority. Therefore, it is submitted that the implementation exercise was a continuing process.

24. It is stated that the Respondent No.1 is a very young organization which has employees joining from various backgrounds i.e. erstwhile Boeing group, erstwhile Airbus group, erstwhile Alliance Air Engineering, erstwhile Air India Express Engineering and Fresh FTC. Therefore, it is submitted that there are bound to be anomalies and adjustments carried thereafter from time to time. It is submitted that since the days of being merely an Engineering department of an airline vertical, the Respondent No.1 has continuously been evolving to meet the requirements and what was applicable before 2015 has vastly changed since then. It is submitted that the effective formation of the Respondent



No.1 took place from 01.01.2015, after it obtained DGCA approval to operate as MRO (Maintenance Repair Overhaul) organization. Also, the revised pay structure as per the JDC was implemented from January 2016. It is submitted that the Respondent herein has the full authority and responsibility to decide upon its organizational structure with due approvals of the competent authority to cater its needs and future plans.

25. It is submitted that the Staff Employment Notice dated 08.12.2015 duly records that the candidates would be required to obtain the necessary trainings and fulfil the experience requirements, and on acquiring the DGCA Licence in the respective categories, would be graded as AME in the applicable scale of pay. Further, the candidates selected pursuant to the aforesaid Staff Employment Notice, were first appointed to the post of Trainee AME vide Notice dated 24/27.01.2017. It is also stated that the Appointment Letter format to be issued to the Trainee AMEs in terms of the Notice dated 24/27.01.2017 succinctly stated that Management of AIESL reserves all rights to take any decision with regard to their training and appointment as 'Aircraft Engineer', if so necessitated.

26. It is submitted that due to changes and amendments in the licencing requirements under CAR-66 and the maintenance requirements under CAR-145, the Respondent No. 1 took necessary steps to ensure compliance to the same. The amendment of the appointment of Trainee AME dated 11.07.2017 was issued keeping all the aforesaid submissions into consideration. It is submitted that the Respondent No. 1, being a Maintenance Organization must ensure compliance to CAR-145 in



addition to the aforesaid CAR-66 requirements. It is submitted that this entailed those changes in the qualification requirement as issued vide the Staff Employment Notice dated 08.12.2015 and the Appointment Letter dated 06.03.2017. Further, the Trainee AMEs have been duly appointed to the E-2 grade as Dy. AME since the year 2018 vide Appointment Notice dated 02.11.2018 and have been in service since then on the grade of Deputy AME.

27. It is further submitted that the Respondents have always tried to help and see to the betterment and growth of the Petitioners, providing them with such opportunities, which otherwise would not be available in general course and through the Staff Employment Notice dated 08.12.2015, the members who were earlier serving and belonging to a subordinate category of Support Service Engineers and Technicians, were given a chance to upgrade their cadre to that of AME. They were given the necessary trainings and were placed directly in the E2 cadre as Deputy Aircraft Engineer.

28. It is submitted that at present, the Petitioners, despite being duly aware of the aforesaid changes, are attempting to unjustly obtain back dated promotions to the E-3 Grade, notwithstanding the fact that they are neither fulfilling the CAR requirements nor the Promotion Criteria. It is stated that it was made succinctly clear that any career progression and/or promotion would be in terms of the rules and policies and thus, the plea of the Petitioners is untenable in law, contrary to the facts and hence be dismissed.



29. Heard learned counsels appearing on behalf of parties at length and perused the record.

ANALYSIS

30. For a better appreciation of the case at hand, it is pertinent to peruse and analyze the provisions of law invoked in the instant petition before delving deeper into the facts of the case; and even before their analysis it is crucial to test the applicability of these provisions to the case at hand.

31. The Ministry of Civil Aviation (hereinafter referred to as the “MoCA”) is the nodal Ministry responsible for the formulation of policy and regulation of civil aviation in India. The MoCA oversees the planning and implementation of schemes *qua* civil air transport, airport facilities, air traffic services and carriage of passengers and goods by air.

32. Other principal regulatory authorities functioning under the authority of the MoCA are mentioned hereunder:

- a. The DGCA enforces civil aviation regulations and regulates air transport services, air safety and airworthiness standards.
- b. The Airports Authority of India (hereinafter referred to as the “AAI”) creates, upgrades, maintains and manages civil aviation infrastructure both on the ground and in the Indian airspace.



- c. The Airport Economic Regulatory Authority (hereinafter referred to as the “AERA”) determines the tariff for aeronautical services and Passenger Service Fees to monitor performance standards relating to quality, continuity and reliability of service.
- d. The Bureau of Civil Aviation Security (hereinafter referred to as the “BCAS”) ensures that the aviation security standards follow national and international obligations/treaties on air safety, to which India is also a signatory.

33. Depending upon the field of activity concerned within the aviation sector, the applicability of regulatory laws also differs. Some of the principal regulations are enlisted below:

- a. The Aircraft Act, 1934 (hereinafter referred to as the “Aircraft Act”) and the Aircraft Rules, 1937 (hereinafter referred to as the “Aircraft Rules”):
 - (i) To regulate the manufacture, possession, use, operation, sale, and the import and export of aircraft; and
 - (ii) To stipulate the parameters for determining air worthiness, maintenance of aircraft, general conditions for flying and safety, registration of aircraft and the conduct of investigations.



- b. The Airports Authority of India Act, 1994 (hereinafter referred to as the “AAI Act”):
 - (i) To establish the AAI; and
 - (ii) To make the AAI responsible for the development, finance, operation and maintenance of all government airports in India.
- c. The Civil Aviation Requirements (“CARs”): the CARs are issued by the DGCA under Rule 133A of the Aircraft Rules and provide the standards expected to be met before a license, certificate, approval or permission is granted/accorded.
- d. The Carriage by Air Act, 1972: governs the rights and liabilities of air carriers and is applicable to both domestic and international carriage by air, irrespective of the nationality of the aircraft performing the carriage.
- e. Airports Economic Regulatory Authority of India Act, 2008 (“hereinafter referred to as the AERA Act”) provides for:
 - (i) To establish AERA;
 - (ii) To regulate the tariff and other charges for services rendered at airports; and



(iii) To establish an appellate tribunal for the adjudication of disputes.

f. Aircraft (Security) Rules 2011: deal with the air safety and security regulations for aerodromes and aircraft.

34. To better understand the changes in CAR, it is necessary to peruse its background, the mechanism and procedure for issuance of the same and the applicability of CAR.

35. CAR are special directions issued by the DGCA and are in consistence with the Aircraft Act, 1934 and rules made thereunder relating to operation, use, possession, maintenance, or navigation of aircraft flying in or over India or of any aircraft registered in India. There is no doubt that the CAR are neither statutory nor under a subordinate legislation. Provisions contained in Sections 4A, 5 & 5A of the Aircraft Act, 1934 and Rules 42A & 133A of the Rules 1937, make it evident that, as held by the Hon'ble Supreme Court in the case of ***Joint Action Committee of Air Line Pilots' Assn. of India v. DG of Civil Aviation, (2011) 5 SCC 435***, the same are merely executive instructions which can be termed as "special directions". The executive instruction can supplement a statute or cover areas to which the statute does not extend, but it cannot run contrary to the statutory provisions or whittle down their effect.

36. In ***Khet Singh v. Union of India, AIR 2002 SC 1450***, the Hon'ble Supreme Court considered the scope and binding force of the Executive



instructions issued by the Narcotic Bureau, New Delhi and concluded that such instructions are binding and must be followed by the investigating officer, coming within the purview of Narcotic Drugs and Psychotropic Substances Act, 1985, even though such instructions do not have the force of law. They are intended to guide the officers and to see that a fair procedure is adopted by them during the investigation of the crime.

37. A Constitution Bench of the Hon'ble Supreme Court in ***Sant Ram Sharma v. State of Rajasthan & Ors.***, AIR 1967 SC 1910 held as under:

"It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed."

Thus, an executive order is to be issued keeping in view the rules and executive business, though the executive order may not have a force of law but it is issued to provide guidelines to all concerned, who are bound by it.

38. In the case of ***Union of India & Anr. v. Amrik Singh & Ors.***, AIR 1994 SC 2316, the Hon'ble Supreme Court examined the scope of executive instructions issued by the Comptroller and Auditor General for making the appointments under the provisions of Indian Audit and Accounts Department (Administrative Officers, Accounts Officers and Audit Officers) Recruitment Rules, 1964, and came to the conclusion that the CAG of India had necessary competence to issue departmental instructions on matters of conditions of service of persons serving in



Department, being the Head of the Department, in spite of the statutory rules existing in this regard. The Hon'ble Supreme Court concluded that an enabling provision exists and in view thereof, the CAG had exercised his powers and issued the instructions, which are not inconsistent with the statutory rules, the same are binding for the reason that the provision in executive instructions has been made with the required competence by the CAG.

39. Thus, it is evident from the above that executive instructions which are issued for guidance and to implement the scheme of the Act and do not have the force of law, can be issued by the competent authority, and altered, replaced and substituted at any time. The law merely prohibits the issuance of a direction, which is not in consonance with the Act or the statutory rules applicable therein.

40. Therefore, what emerges from the above, is that the compliance with the CAR, being executive instructions, are as such mandatory. Occasionally, however, there may be situations where it may not be possible to comply with the directions given in the CARs because of exceptional circumstances, physical constraints, non-availability of specified equipment etc. which may warrant exemptions from the CARs. However, such deviation would be an exception and not the norm. To cater to such circumstances, sub-rule (4) of Rule 133A of the Aircraft Rules, 1937 provides Director-General of Civil Aviation (DGCA) the power to exempt any aircraft or class of aircraft or any person or class of persons from the direction(s) given in CARs, either wholly or partially,



subject to such conditions, if any, as may be specified in such order which may be of a general or specific nature.

41. Having perused the provisions regarding the CAR in detail and the bindingness of the CAR, it is now pertinent to apply the same to the case at hand.

42. The relevant portion of the Staff Employment Notice is reproduced hereunder:

"Ref: AIESL/COP/287

Date: 08.12.2015

STAFF EMPLOYMENT NOTICE

(AIRCRAFT MAINTENANCE ENGINEER)

Applications are invited from serving permanent employees of AIESL for the post of Aircraft Maintenance Engineer and to form a panel for future requirement. The requirements for the post are as follows:

QUALIFICATION

Candidates must be holding DGCA issued Basic Aircraft Maintenance Engineer's License (BAMEL) in the category of: HA/PA and JE/CT"

43. The relevant portion of the Selection Procedure as contained in the said Notice is also reproduced hereunder:



"SELECTION PROCEDURE

The eligible candidates would be interviewed by a Selection Committee to adjudge their suitability. The selected candidates would retain their existing designation/s in their existing cadre till such time they are absorbed as Aircraft Engineer. The existing pay of the selected candidates would be protected during the period of their acquiring the DGCA licence in the respective category. They would, however, continue to perform their existing duties/functions/ any other duties/ functions assigned to them in their present cadre, till such time they acquire the DGCA licence and are absorbed in the cadre of Aircraft Engineer. The selected candidates may be posted to any station/ region as per the requirement of the Company.

The candidates would be imparted DGCA approved CAR-147 Type rated, B1/B2 training as required in the respective categories. On successful completion of the approved trainings and after fulfilling the experience requirement, the candidates would be required to appear for DGCA License examinations. And, on acquiring the DGCA Licence in the respective categories, they will be graded as Aircraft Maintenance Engineer in the applicable scale of pay.

44. The relevant portion of the General format of Appointment letter is as produced below:

"AIR INDIA ENGINEERING SERVICES LIMITED

Regd. Office: Airline House, 113, Gurudwara Rakab Ganj Road, New Delhi – 110001: PHONE- 01123422000

Date: 06.03.2017



APPOINTMENT – TRAINEE AIRCRAFT MAINTENANCE ENGINEER

With reference to Appointment order of Trainee AME issued under reference No. COP/AIESL/2017/321 dated 24.01.2017; we are pleased to offer you appointment as Trainee Aircraft Maintenance Engineer on the terms and conditions mentioned hereunder.

4. Appointment: *On acquiring the necessary experience as laid down by DGCA (in CAR 66) and on successful completion of Aircraft Type Rated Training (to be provided by the company), you will be required to appear in AME Licence Examination and obtain the requisite DGCA “Type Rated”, Aircraft Maintenance Engineers Licence i.e. either B2 or B1, or B1 with limitation (3 or 7 or both) on an existing type of aircraft that is being maintained and serviced by AIESL .*

On your completion of one year training period and acquiring AME Licence from DGCA as stated above, you will be appointed as “Aircraft Engineer” in the scale of pay of Rs.24,900- 50,500 in E-3 Grade, with protection of pay. Further, when you are not being imparted training you will continue to carry out your assigned duties and functions at your work place.”

45. The aforesaid letter stood modified by way of an Amendment Letter dated 11.07.2017, the relevant portion of which are reproduced hereunder:

"AIR INDIA ENGINEERING SERVICES LIMITED



CRA Building, 2nd Floor, Safdarjung Airport, New Delhi-110003

Shri/Smt.....

SAP NO : ,

Region : NR

Ref. No : AIESL/COP/2017/HQ/SAP NO.

Date: 11.07.2017

Sub: Appointment - Trainee AME (Internal) - Amendment No. 1

Reference to our earlier letter no. AIESL/COP/2017/SAP NO. dated 08.03.2017 appointing you as Trainee Aircraft Maintenance Engineer. Due revision in licensing policy by DGCA, the said appointment stands amended to the following extent. Your place of posting will be /stand revised as under:

3. Appointment - The Clause will stand changed and amended as follows:

a. You would be imparted necessary training courses to enable you obtain LSA (Limited Scope Approval) as per the laid down guidelines and rules in this regard and your services would be availed of for the activities as permissible to be performed by the holder of an LSA. This would be applicable for A&C categories. For Avionics, necessary requirements as per DGCA would have to be fulfilled.



b. You will be required to pass the necessary modules as per laid down DGCA (CAR 66) guidelines before appearing in the Aircraft Type Rated Training for AME license examination on either B1 or B2 as the case may be on an existing type of aircraft being maintained and serviced by AIESL. You would also be required to acquire necessary experience as per DGCA before appearing in the type rated training. On your successful completion of training and your acquiring AME license from DGCA you would be extended career progression as per rule and policy decision of the Co."

46. By way of the Appointment letter dated 2.11.2018, the Trainee Aircraft Maintenance engineers were placed in the E-2 Grade as Dy. Aircraft Engineers.

47. Drawing reference to the Staff Employment Notice dated 08.12.2015, it is duly recorded that the candidates would be required to obtain the necessary trainings and fulfill the experience requirements, and on acquiring the DGCA License in the respective categories, would be graded as AME in the applicable scale of pay. Further, the candidates selected pursuant to the aforesaid Staff Employment Notice, were first appointed to the post of Trainee AME.

48. As has been stated by the Respondent No.1, the Appointment Letter format issued to the Trainee AMEs succinctly stated that the Management of AIESL reserves all rights to take any decision with regard to their training and appointment as 'Aircraft Engineer', if so necessitated.

49. It is also evident that due to changes and amendments in the licensing requirements under CAR-66 and the maintenance requirements



under CAR-145, the amendment of the appointment of Trainee AME dated 11.07.2017 was issued. Therefore, it is beyond the control of the Respondent No.1 to bypass the said regulations.

50. Further, the Trainee AMEs have been duly appointed to the E-2 grade as Dy. AME since the year 2018 vide Appointment Notice dated 02.11.2018 and have been in service since then on the grade of Dy. AME. Since, the petitioner has failed to point out any gross illegality or irregularity in the impugned appointment, and their entitlement or matching of the qualification to the same has been pointed out by the petitioner. Therefore, no case, as such is made out to exercise the extraordinary powers meant to be exercised in a writ jurisdiction.

CONCLUSION

51. In a writ petition, the nitty-gritty's of a technical nature regarding the appointment cannot be weighed in, especially while the parties have failed to specify the exact criteria for appointment to the post of Aircraft Maintenance Engineer, in line with the latest rules and guidelines. The petitioner have also failed to make out any case for discrimination or violation of their rights in the instant case, which could be adjudicated in the instant case.

52. Hence, in light of the foregoing discussion and analysis, there are no cogent reasons to entertain the petition and allow the prayers sought therein. In the aforesaid terms, the instant petition stands dismissed.



53. It is made clear that any observations made herein shall have no bearing whatsoever on the merits of the case arising from the set of facts and circumstances of this case, in the course of any proceedings before any other Court.

54. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

August 18, 2022
dy/@dityak.

