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WMP.No.12787 of 2024
in W.P.No.124 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

WMP.No.12787 of 2024
in W.P.No.124 of 2016

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

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,
Executive Director of Flight Safety,
New Delhi – 110 003.
- 5.Central Training Establishment,
Air India Limited,



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Represented by its Director of Training,
(cTE) Ferozguda, Hyderabad – 500 011.
6.Air India Limited,
General Manager, Operations Department,
Meenambakkam, Chennai – 600 027. ... Respondents

Prayer: WMP is filed to recall petition under Section 151 of the Code of Civil Procedure due to false affidavit and representation by the respondent after clarification by the Director General of Civil Aviation (D.G.C.A.) on 23.12.2020 about training and about collection of wife's license to establish prima facie case of deliberate falsehood by the respondents 2 to 6th respondent in W.P.No.32885 of 2014 and W.P.No.124 of 2016 before this Hon'ble High Court, thereafter reasonable foundation establish after the D.G.C.A. filed new additional documents and Counter affidavit dated 25.03.2022, 07.04.2022 respectively filed in W.P.No.20813 of 2021 and, recall the judgement W.P.No.124 of 2016 dated 15.06.2016 and punish accordingly or pass such order or other orders as deemed fit and proper in the circumstances of the case.

For Petitioner : Capt.M.S.Krishna Kumar (P-In-P)

For Respondents : M/s.K.Srinivasamurthy

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N.MALA, J.

The petitioner filed the above recall petition to recall the Judgment dated 15.06.2016 in W.P.No.124 of 2016. W.P.No.124 of 2016 was filed for a writ of certiorarified mandamus directing the 5th respondent to call for the records dated 02.02.2015 in Training Committee proceedings headed by 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.). The petitioner filed W.P.No.32885 of 2014 for a Writ of Mandamus directing the respondents therein to implement the recommendations of the Grievance Committee dated 14.03.2014 and thereby restore the petitioner's check pilot license including other monetary benefits and promote him to the Post of Instructor within a time frame to be fixed by this Court.

2.This Court clubbed the writ petition in W.P.No.124 of 2016 along with W.P.No.32885 of 2014. This Court vide common order dated 15.06.2016 dismissed the above writ petitions. The writ petitioner filed a Review Application Nos.79 & 80 of 2016 and the same were also disposed



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of by this Court vide order dated 07.09.2016. Thereafter, the petitioner filed the writ appeals in W.A.Nos.1648 to 1651 of 2016 against the common order passed in W.P.Nos.32885 of 2014 and W.P.No.124 of 2016 as well as in the review applications. The Hon'ble Division Bench of this Court vide the order dated 28.09.2018, dismissed both the Writ Appeals as well as the Review Applications. The petitioner approached the Hon'ble Supreme Court by way of SLP in Special Leave Petition (Civil) Diary No.3009 of 2021 and the same was dismissed by the Hon'ble Supreme Court on 28.06.2021. The petitioner filed W.P.No.18251 of 2021 for the Writ of Mandamus directing the third respondent to comply with the recommendations of D.G.C.A. Letter reference No.: DGCA – 15031/36/2020-DAS, dated 19.04.2021, in so far recommending the petitioner to undergo “corrective training and extended refresher” programme as per letter dated 30.01.2014, in reference : MDS/OPS/PF/TRG/2450, for incident that took place on 15.07.2012 within a time frame and call the petitioner for L.T.C. Training (Line Training Captain) as per seniority with reference No.: HOP/27-10032/5036 dated 19.07.2019. This Court dismissed the writ petition as infructuous, with a direction to the petitioner to pursue the writ petition filed by him in W.P.No.25984 of 2021. The petitioner filed W.A.No.298 of 2022 against



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the said order. The petitioner filed W.p.No.25984 of 2021, challenging the communication dated 22.10.2021 sent by an e-mail by the fourth respondent to the sixth respondent and to withdraw the adverse remarks against him finding him unfit for “Training Captain”. The petitioner also filed W.P.No.1225 of 2023, for a Writ of Mandamus, “directing the 2nd respondent to take action as per the Civil Aviation regulations (C.A.R.) Section 7, Series I, Part II, issue II and operations circular 02 of 2023 against the 3rd to 5th respondents for vindicate nature, biased with malafide intention pass and dispose of representation of dated 16.07.2021 in 21.12.2022 format in a time frame manner”.

3.The Hon'ble Division Bench clubbed the Writ Appeal in W.A.No.298 of 2022 along with the Writ Petitions in W.P.Nos.25984 of 2021 and 1225 of 2023 and passed the common order dated 12.03.2024, dismissing the Writ Appeal as well as the Writ Petitions. The petitioner has filed review applications against the aforesaid common order and the same is said to be pending before this Court at the SR Stage. The writ petitioner has now filed the above recall application alleging that the respondents have committed perjury on four counts which are as follows:

(i) Collection of wife's licence by the petitioner



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from the office of D.G.C.A. (Para. No.9 & 22 in counter affidavit filed W.P.No.124 of 2016).

(ii) After apology by the petitioner dated 09.12.2012, and the incident happened on 10.04.2013 is mentioned as if the petitioner didn't remorse, but incident happened on 15.07.2012. (Para. No.12 & 13 & 20 & 2622 in counter affidavit filed W.P.No.124 of 2016)

(iii) Three training recommended on 02.02.2015 in training committee is represented by the respondent to project as if the petitioner refuses training and sought time to undergo the training citing family members illness, till date he has not undergone the training in the manner stated by the Flight Safety Department. (Para. No.24 in counter affidavit filed W.P.No.124 of 2016)

(iv) Simply adding one word "FIT"

4.The petitioner's contention is that because of the aforesaid false statements of the respondents, the Court passed the adverse orders against



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him, and therefore it was necessary to recall the order passed in
W.P.No.124 of 2016.

5.The respondents filed counter tracing the entire history of the litigations filed by the petitioner and referred to some of the orders of this Court, wherein this Court was of the opinion that the cases filed by the petitioner were absolutely groundless, frivolous and vexatious and therefore dismissed the same.

6.The learned counsel for the petitioner submitted that the respondent filed false affidavit before this Court and got favourable orders and had the true facts been placed before this Court, the Court would not have passed the adverse orders against him. The fulcrum of the petitioner's contention is that if not for the false statements of the respondents, adverse orders would not have been passed against him.

7.A perusal of the common order passed in W.P.No.124 of 2016 etc. clearly shows that the order was not passed on any of the grounds raised in present recall application, but were dismissed on merits and on the conclusion that the decision to withdraw the Check-Pilot post of the



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petitioner was taken by the training committee as an expert body and therefore, the Court would be loathe to interfere with the opinion of the experts in the field. The Court further reasoned that the petitioner could not retract from the earlier proceedings, in view of his letter, which was followed by the order dated 26.09.2013. This Court found that the apology letter submitted by the petitioner and the orders passed in pursuance thereof were binding on the petitioner and that he was liable to comply with the directions issued in the letter dated 26.12.2012, moreso, when he failed to challenge the said orders. It was further found that under Article 226 of the Constitution of India, this Court lacked the competency to decide on the necessity and desirability to send an officer for training. Similarly, the Court did not find merit in the submission that the training undergone qua a Pilot should be read into a training meant for Check-Pilotship. The Court further found that the decision of the grievance committee did not take away the right of the training committee to satisfy itself about the performance of the petitioner to act as a Check-Pilot. This Court thereafter referred to the petitioner's conduct in not attending the ground classes on the reason of illness of his family member. The Court also rejected the contention of the petitioner on non-compliance of the time schedule given in the circular stating that at best it was a guideline. The Court thereafter,



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dismissed the writ petitions. From the above narration of the reasonings given by the Court for rejecting the petitioner's writ petitions it is clear that none of the false statements which are made the basis for the recall of the order, formed the foundation for the decision against the petitioner. While so, the petitioner cannot now seek to reopen the entire issue by filing the recall petition on some vague, vexatious and frivolous allegations of false statements allegedly made by the respondents. It is further pertinent to note that these allegations of false statements and perjury were raised by the petitioner even in W.A.No.298 of 2022, W.P.Nos.25984 of 2021 and 1225 of 2023 and the Court dismissed the Writ Appeal and the Writ petitions on merits without entering into the said allegations. It is pertinent to note here that the petitioner admits that he has filed a review application against the order passed in W.A.No.298 of 2022, W.P.Nos.25984 of 2021 and 1225 of 2023 and the same is pending in SR Stage. When specific questions were put by this Court to the petitioner, if he raised the issue regarding false affidavit and perjury in Review Application before the Hon'ble Division Bench of this Court, the petitioner categorically admitted that similar allegations were raised in the review application in the Writ Appeal filed before the Hon'ble Division Bench. I am therefore of the view that as the petitioner has already raised the issue before the Hon'ble Division Bench,



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the present recall application cannot be entertained and hence the same is dismissed. Apart from the above it is seen that there is an enormous delay of 8 years in filing the recall application. The reason is not far to seek as the facts speak for themselves. The petitioner exhausted his remedies upto the Apex Court and thereafter filed some more litigations and after having failed in all his endeavours, finally filed the recall application. In my view this is sheer abuse of process of Court. Even the Division Bench in W.A.No.298 of 2022 etc., after referring to the Judgment of the Apex Court in 1998 (3) SCC 573 (K.K.Modi Vs. K.N.Modi) held that the case of the petitioner herein was absolutely groundless, frivolous or vexatious proceedings.

8.In view of the above discussions, I find absolutely no merits in the recall application and the same is dismissed.

21.10.2024

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