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W.A.No.298 of 2022 &
W.P.Nos.25984 of 2021 & 1225 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No.298 of 2022 &
C.M.P.Nos.2104, 2108, 2110, 2113 of 2022 and
W.P.Nos.25984 of 2021 & 1225 of 2023

W.A.No.298 of 2022

Capt. M.S.Krishna Kumar

... Appellant

Vs.

- 1.Union of India,
Represented by its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi - 110 003.
- 2.Air India Limited,
Rep. 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.



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5. Central Training Establishment,
Air India Limited,
Represented by its Director of Training,
(CTE) Ferozguda, Hyderabad - 500 001.

6. Air India Limited,
General Manager,
Operations Department,
Meenambakkam,
Chennai - 600 027.

7. The Director General,
Directorate General of Civil Aviation,
Aurobindo Marg, Opp. Safdarjung Airport,
New Delhi 110 003.

8. Capt N. Shivaramakrishnan,
No.45, Old No.22,
Alamelumangapuram,
Mylapore, Chennai - 600 004.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.12.2021 passed by the learned Judge in W.P.No.18251 of 2021.

For Appellant : Capt. M.S.Krishna Kumar
Party-in-person

For Respondents : Mr.Sathish Parasaran
Senior Advocate
For Mr.Srinivasamurthy for R2 to R6

Mr.Rajesh Vivekananthan for R7

Mr.N.Sivaprakash for R8

W.P.No.25984 of 2021

Capt. M.S.Krishna Kumar

... Petitioner



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Vs.

- 1.Union of India,
Represented by its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi - 110 003.
- 2.Air India Limited,
Rep. 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,
Represented by its Director of Training,
(CTE) Ferozguda, Hyderabad - 500 001.
- 6.Air India Limited,
General Manager,
Operations Department,
Meenambakkam, Chennai - 600 027.
- 7.The Director General,
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Aurobindo Marg, Opp.Safdarjung Airport,
New Delhi 110 003.
- 8.Capt N.Shivaramakrishnan,
No.45, Old No.22,
Alamelumangapuram,
Mylapore, Chennai - 600 004.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records of FSD/HQ/2021/06/268, dated 22.10.2021 sent by an e-mail by the fourth respondent to the sixth respondent and only the extract portion sent by an e-mail to the petitioner on 25.10.2021, quash the same and withdraw the adverse remarks that the petitioner is unfit to become a "Training Captain".

For Petitioner : Capt. M.S.Krishna Kumar
Party-in-person

For Respondents : Mr.Sathish Parasaran
Senior Advocate
For Mr.Srinivasamurthy for R2 to R6

Mr.Rajesh Vivekananthan for R7

Mr.N.Sivaprakash for R8

W.P.No.1225 of 2023

Capt. M.S.Krishna Kumar ... Petitioner

Vs.

1.Union of India,
Represented by its Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi - 110 003.

2.The Director General,
Directorate General of Civil Aviation,
Aurobindo Marg, Opp.Safdarjung Airport,
New Delhi 110 003.

3.Capt R.S.Sandhu



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4.Capt.S.Velraj

5.Capt.T.P.S.Dhaliwal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the second 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 2013 against the third to fifth respondents for vindicate nature, biased with malafide intention and dispose of the representations dated 16.07.2021 and 21.12.2022 within a time frame manner.

For Petitioner : Capt. M.S.Krishna Kumar
Party-in-person

For Respondents : Mr.C.Kulanthaivel,
SPC for R1 and R2

Mr.Rajesh Rajan
For Mr.V.S.Senthilkumar for R3 to R5

* * *

COMMON JUDGMENT

Heard all the parties and perused the records.

2. Since common issues are involved in the writ appeal and in the writ petitions, they were taken up together and are decided by this common judgment.



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3. All the three cases have been instituted at the instance of one Capt. M.S. Krishna Kumar, who is hereinafter referred to as 'the appellant'. According to him, he joined Air India Limited (formerly Indian Airlines) in the year 1989 as a Trainee Pilot. Subsequently, he was upgraded to various positions and by approval dated 01.06.2010, he was given the position of Check Pilot, which was changed as L.T.C (Line Training Captain) on 10.07.2010 and is the first phase of training captain. The said approval further proceeds to state that it is valid for a period of five years and the appellant shall be required to undergo assessment of his continued proficiency in carrying out his privileges as Check Pilot by the Chief Flight Operations Inspector or a Flight Operations Inspector once in every two years from the date of exercise of Check Pilot privileges.

4. The appellant further averred that his wife by name Lakshmi, also joined Air India Limited, Central Training Establishment on paid basis to do Airbus-320 training and her training was interrupted due to the pilot strike in the year 2011 and hence, she gave a cheque for Rs.44,100/- on 05.07.2011 with a request to waive the additional training cost, and the said cheque got bounced due to stop payment instruction alleged to have been given by the appellant. While so, *vide* order dated 13.10.2011 of the Executive Director (Training), it was decided that the services of the appellant viz., Capt.M.S.Krishna Kumar as Check Pilot, shall not be utilised with immediate effect, till further orders, on the



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allegations of not honouring the cheque for Rs.44,100/-, collection of licence of his wife from DGCA by influence, and making accusations against senior pilots. The said decision was communicated to the appellant, *vide* letter dated 20.10.2011 of the General Manager (Operations). After several exchanges of communications and the letter of apology given by the appellant, *vide* proceedings dated 14.03.2014, a decision was taken by the Grievance Committee to give the appellant a fair chance to prove his promised behaviour for restoration of his status as Check Pilot and the said decision is extracted below, for ease of reference:

"Having heard the grievance of the employee concerned in person, the Committee is of the opinion that the status of the Check Pilot must be restored to Cap.M.S.Krishnakumar from the date it was stopped and payment be made of the allowances from the date it was stopped."

However, the said order of the Grievance Committee was not complied with by the respondent authorities, which compelled the appellant to file a writ petition bearing No.32885 of 2014 seeking a mandamus to the authorities to implement the order of the Grievance Committee.

5. During the pendency of the writ petition viz., WP No. 32885 of 2014, *vide* letter dated 01.04.2014 of the General Manager (Operations), the appellant was asked to attend classes scheduled to be held on 04.04.2014. But, he sent a reply stating that he was unable to attend the classes due to ill-health of a family



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member, and on 19.08.2014, he sent an email stating "I am unable to go till I am upgraded on Airbus". In view of the same, on 02.02.2015, the Technical Committee consisting of not less than 15 officers of repute, was of the view that the appellant lacked integrity and therefore, he could not be considered for Line Training Captain revalidation. Challenging the said order of the Technical Committee, the appellant filed W.P.No.124 of 2016.

6. By a common order dated 15.06.2016, both the writ petitions viz., W.P.Nos.32885 of 2014 and 124 of 2016 were dismissed and the relevant portions of the said order are reproduced below:

"6.6. When the petitioner was asked to attend the ground class, strangely, he has given his reply stating the illness of his family member and thus, not questioned its validity. Thereafter, the Training Committee, which consists of 15 top officials, took a conscious decision by assigning clear reasons after taking note of all the conduct of the petitioner. This Court does not find any perversity in the said decision made. It is also not the case of the petitioner that the work of the Line Training Captain does not involve integrity free from prejudice and impartial conduct. Accordingly, the challenge made to the decision taken by the Training Committee cannot be sustained.

6.7. A further contention was raised that the time limit given in the circular was not complied with and it is not necessary to send an Officer for training/classes in all situation. This Court is afraid that the said contention also cannot be accepted. The time schedule has to be seen contextually on the facts of each case. At best, it can be a guideline. It cannot be said that a person cannot be awarded or remould from a Check Pilotship or reevaluated after the expiry of the specified period. The petitioner has not demonstrated that he is entitled on performance to function as a Check Pilot. The said issue also does not lie within the jurisdiction of this Court as it involves application of mind by an Expert Body. The decision to refer the petitioner also cannot be questioned as it lies within the jurisdiction of the authorities. This Court cannot decide on the necessity and desirability to send an Officer for training. Similarly, the other contentions sought to be raised that the training undergone qua a Pilot will have to be read into a training meant for Check Pilotship does not merit acceptance. As noted above, the role of a Pilot is different from that of a Check Pilot and



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thus, the requisite parameters would also be different. It is not, as if, by determining Pilot one would automatically become a Check Pilot, hence, the said contention was also rejected.

7. For the aforesaid reasons, this Court does not find any merit in these writ petitions. Accordingly they are dismissed. However, the dismissal of these writ petitions will not stand in the way of the respondents to consider the request of the petitioner for Check Pilotship upon satisfaction of the petitioner's compliance and performance. No costs. Consequently, connected miscellaneous petition is also dismissed."

7. Seeking to review the above order dated 15.06.2016 passed in W.P.Nos.32885 of 2014 and 124 of 2016, the appellant filed Review Application (Writ) Nos.79 and 80 of 2016 and the learned Judge, *vide* order dated 15.09.2016 dismissed the same, with the following observations:

"9. It is not in dispute that the initial order passed in the year 2011 has never been put in challenge by the petitioner. On the contrary, as recorded by this Court, the petitioner, through his conduct, at times, accepted the said decision. The order dated 2.2.2015 also records the fact that it is the then CFOI-DGCA has informed GM (Ops.)-Training-CTE to subject the petitioner to undergo CAT II/III B (LVO) performance/Technical classes which he has not undergone informing the ill health of his family member. Admittedly, this has not been done. Even this, he has accepted, quoting alleged ill health of his family member. Thereafter, he has taken different stand through his mail, stating that "I am unable to go till I am upgrade on Airbus". These factors, in fact, were recorded by this Court while passing the final orders in the writ petitions. This prima facie shows that the action was initially taken to make the petitioner to undergo training by the DGCA itself and thereafter, the request of the petitioner for revaluation was not taken by the order dated 2.2.2015. This has got nothing to do with the Circular per se.

10. This Court has considered the material available on record in ex tenso, while passing the orders in the writ petitions.

11. Therefore, these Review Petitions are liable to be rejected since no grounds are made out to review the order.

12. At this stage, after completion of the dictation of the order, the petitioner tries to make one more submission on the order passed in the review petitions. He submits that the person who conducted interview on behalf of the DGCA, was not functioning under it and therefore, he was incompetent to undertake the said exercise. This Court is afraid that the said submission can be countenanced for more than one reason. Such a plea though available earlier to him, has not been taken by the petitioner earlier and even now.

13. The petitioner has not questioned the exercise done by the said



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authority. It is also not his case that the person who conducted the interview, has not been authorized by DGCA. The said decision made by the authority who conducted the interview, was also not put into challenge. However, on the contrary, the petitioner merely sought time. Therefore, the said contention is also rejected.

14. In view of the above discussion, the Review Petitions are dismissed."

8. Challenging the orders passed by the learned Judge in the writ petitions as well as in the review applications, the appellant filed four appeals in W.A.Nos.1648 to 1651 of 2016 and a Division Bench, *vide* judgment dated 28.09.2018, dismissed the same. The relevant passage of the said judgment reads as under:

"19. It is seen from the order passed by the learned Single Judge that after taking note of all the communications and also after going through the letter of apology given by the appellant herein and the communications dated 20.10.2011, 28.08.2012 and 16.05.2012, the learned single Judge came to the conclusion that the contention of the appellant regarding non supply of reason for the earlier decision and subsequent report dated 19.03.2012 cannot be accepted. Further, the fact remains that the appellant did not even sign the said enquiry conducted, which also assumes significance. The appellant having given apology letter cannot now turn around and challenge the earlier proceedings, in view of the letter given by him followed by orders dated 26.12.2012 and 29.04.2013 and thus, the learned Single Judge came to the conclusion that the only remedy available to the appellant at that given point of time, was to comply with the directions issued by the respondents on 26.12.2012. Furthermore, the subsequent letter dated 09.04.2013 is also binding on him.

20. After hearing the submissions made by the learned counsel Mr.N.G.R.Prasad appearing on behalf of respondents~Air India and also going through the records connected thereon, we find that the Grievance Committee also lacked the technical expertise of the Training Committee. In fact, the proceedings of the Grievance Committee does not discuss the question as to whether the appellant has satisfied the requisite criteria or not and therefore, based upon the Circular produced by the respondents, we find that there is no binding effect on the said decision of the Grievance Committee upon the Training Committee, whose order has been challenged in the subsequent Writ Petition in W.P.No.124 of 2016.

21. As rightly pointed out by Mr.N.G.R.Prasad, learned counsel appearing on behalf of respondents/Air India in the oral arguments and also through written arguments, as per the impugned order, the Training Committee has asked the appellant to undergo ground classes. However for the reasons best known,



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the appellant has given a reply citing illness of his family members and he has not attended the classes and hence, it is not open to him to question its validity. It is also seen from the records that after passing of the said order, the Training Committee consisting of 15 officials on analysis of his conduct in the past, have come to the conclusion that the appellant falls short of required conduct and hence he has to undergo further training and till such time, his Check Pilot has to be kept in abeyance, which finding, according to us, does not amount to perversity. It remains to be stated that even according to the appellant, the work of the Line Training Captain does not involve integrity free from prejudice and impartial conduct and hence, the decision taken by the Training Committee in the order impugned in W.P.No.124 of 2016, cannot be termed as punitive or lack of jurisdiction and hence, the finding of the learned single Judge is well considered and well merited and it does not warrant any interference by this Court at this appellate stage.

22. The learned Judge, after analysing the report of the Training Committee which was the subject matter of the impugned orders in the writ petitions, has held that under judicial review, this Court under Article 226 of the Constitution of India cannot decide on the necessity and desirability to send an Officer for training. Similarly, the training undergone qua a Pilot would be read into a training meant for Check Pilotship which does not merit acceptance. In short, when the Technical Expert Committee as in the instant case, has dealt with the matter in an elaborate manner, taking into consideration the conduct of the appellant, the finding given by the Technical Committee and the orders passed thereon cannot be subjected to judicial review under Article 226 of the Constitution of India.

23. It remains to be stated that the role of a Pilot is different from that of a Check Pilot and unless the appellant satisfies the requisite parameters, he cannot automatically become a Check Pilot. Hence, the order passed by the learned single Judge, rejecting the contention of the appellant in implementing the recommendations of the Grievance Committee in W.P.No.32885 of 2016 and the rejection order passed by the Training Committee which is subject matter in W.P.No.124 of 2016, does not call for any interference by us in this appellate Stage.

24. Accordingly, all the writ appeals are dismissed. However, as observed by the learned single Judge, the dismissal of the writ appeals will not stand in the way of the respondents to consider the request of the appellant for Check Pilotship, upon satisfaction of the appellant's compliance and performance. No costs. Consequently, the connected miscellaneous petitions are also dismissed."

9. The appellant, thereagainst, filed applications viz., Review Application Nos.44, 45, 47 and 48 of 2019 to review the judgment passed in W.A.Nos.1648 to 1651 of 2016 and the Division Bench, *vide* order dated



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20.12.2019, dismissed the same. The relevant passage of the said order is quoted below for ready reference:

"4. After hearing the review petitioner/party-in-person and Mr.J.Madanagopal Rao, learned Senior Central Government Standing Counsel appearing for the first respondent in all the review petitions/Union of India and also Mr.N.G.R.Prasad, learned counsel appearing for respondents 2 to 6 in all the review petitions/Air India, we are of the view that the issue raised in these review petitions do not relate to promotion, since the Check Pilot is only an assignment with a specific role attached to it and the said assignment would be decided as per the Circulars. The duty of the Check Pilot is to check the proficiency of other pilots. Therefore, as a Check Pilot, one is required to have requisite parameters and there is no permanency attached to the Check Pilot. Further, it is seen that the character, conduct, seniority, managing skills, knowledge about the technicalities are subjected to review from time to time.

5. The review petitioner having given apology letter, cannot now turn around and challenge the earlier proceedings, in view of the letter given by him followed by orders dated 26.12.2012 and 29.04.2013 and thus, the conclusion arrived at by the earlier Bench that the only remedy available to the review petitioner at that given point of time, is to comply with the directions issued by the respondents on 26.12.2012 is correct. Furthermore, the subsequent letter dated 09.04.2013 is also binding on the review petitioner. Under judicial review, this Court, under Article 226 of the Constitution of India, cannot decide on the necessity and desirability to send an Officer for training. Similarly, the training undergone qua a Pilot would be read into a training meant for Check Pilotship which does not merit acceptance.

6. We have also heard the respective respondents' counsel at the time of admission. After going through the finding rendered in the Writ Appeals to the effect that a Technical Committee, consisting 13 people from different faculty, has rendered a categorical finding about certain lapses committed by the review petitioner herein while landing the flight in Muscat whereby, the safety of the passengers was put to peril, in such view of the matter, the Technical Committee appears to have come to the conclusion and advised the review petitioner to undergo the safety enhancement training which is essential to ensure the safety of the passengers while take off and landing, which is more of technical in nature. Furthermore, for the reasons observed, the Division Bench of this Court has held that the Training Committee has asked the review petitioner to undergo ground classes. However for the reasons best known, the review petitioner has given a reply citing illness of his family members and he has not attended the classes and hence, it is not open to him to question its validity. It is also seen from the records that after passing of the said order, the Training Committee consisting of 15 officials on analysis of his conduct in the past, have come to the conclusion that the review petitioner fell short of required conduct and hence, he has to undergo further training and till such time, his Check Pilotship has to be kept in abeyance, which finding, according to us, does not amount to perversity.



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7. In short, when the Technical Expert Committee, as in the instant case, has dealt with the matter in an elaborate manner, taking into consideration the conduct of the appellant, the finding given by the Technical Committee and the orders passed thereon cannot be subjected to judicial review under Article 226 of the Constitution of India.

8. In such view of the matter, the other allegations levelled by the review petitioner that in view of certain issues raised by him on behalf of his wife, the official respondents are unnecessarily digging his past records and causing shadow upon him and the same cannot be countenanced, in view of the technical finding rendered by the Technical Committee as to certain lapses on the part of the review petitioner herein touching upon the Air safety of the Air passengers in the flight. Besides, the role of a Pilot is different from that of a Check Pilot and unless the review petitioner satisfies the requisite parameters, he cannot automatically become a Check Pilot.

9. In this view of the matter, we are of the considered view that the findings rendered in the writ appeals as discussed supra are well considered and well merited. Further, there is no error apparent on the face of records nor another new facts came into light or any perversity for not taking the documents for consideration. Thus, viewing from stand point, we are of the considered view that the essential features to entertain the review applications does not arise for consideration and hence, in this view of the matter, the review applications are devoid of merits.

10. Accordingly, all these Review Applications stand dismissed. No costs."

10. Challenging the judgment passed in W.A.Nos.1648 to 1651 of 2016 and the order passed in Review Application Nos.44, 45, 47 and 48 of 2019, the appellant approached the Apex Court by filing Special Leave Petition (Civil) Diary No.3009 of 2021. However, the Apex Court dismissed the same *vide* order dated 28.06.2021.

11. When the matter stood thus, the appellant filed yet another writ petition bearing No.18251 of 2021 for a direction to the Executive Director of Operations, Air India Limited, to recommend him to undergo "corrective training



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and extended refresher" within a time frame and call him for L.T.C training as per the seniority with reference to No.HOP/27-10032/5036 dated 19.07.2019. It was stated in the said writ petition that the appellant sent a detailed representation dated 24.11.2020 to the DGCA about the corrective training and several other training sessions undergone by him, and also expressed his willingness to undergo any training. On receipt of the same, the Flight Safety, Air India Ltd, directed the Committee to take decision on the request of the appellant. However, nothing moved, which compelled the appellant to file the present writ petition bearing No.18251 of 2021. The learned Judge dismissed the said writ petition on 06.12.2021, based on the submission made by the learned counsel for the respondent authorities that the request of the appellant to restore him to the post of Check Pilot, had been rejected. For better understanding, the order of the learned Judge is extracted hereunder:

"When the matter is taken up for hearing, it is represented by the learned counsel for the respondent that the prayer in the Writ Petition has become infructuous, since his request for restoring him to the post of Check Pilot has been rejected. The same writ petitioner has also filed another Writ Petition in W.P.No.25984 of 2021 challenging the same.

2.In view of the development which has taken place during the pendency of this Writ Petition, this Court finds that nothing survives for consideration in this Writ Petition and therefore, the same stands dismissed as having become infructuous. The petitioner is permitted to pursue the other Writ Petition if he is so advised. No costs. Consequently, the connected miscellaneous petitions stand closed."

Challenging the aforesaid order dated 06.12.2021, the appellant has filed W.A.No.298 of 2022 before this court.



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12. During the pendency of the writ petition viz., WP No.18251 of 2021, the fourth respondent viz., Executive Director of Flight Safety, Air India Limited sent an e-mail in FSD/HQ/2021/06/268 dated 22nd October 2021, to the sixth respondent viz., General Manager of Air India Limited, Operations Department, Chennai, making adverse remarks against the appellant to the effect that he is unfit to become a 'Training captain'. Feeling aggrieved, the appellant filed a writ petition bearing No.25984 of 2021 praying to quash the same. It is stated in the said writ petition that the judgment dated 28.09.2018 passed in WA Nos.1648 to 1651 of 2017 had not been implemented by the respondent authorities and the appellant was not restored as Check Pilot. It is further stated by the appellant that the fourth respondent passed the order dated 22.10.2021 with changing just one word as "unfit" by quoting the same letter dated 02.02.2015 which indicated "not to be taken". It is also stated that the rule position is that prior to exercising the privileges of LTC, the pilots shall undergo the stipulated ground training and satisfactory training / checks on an approved simulator / aircraft; the pilots who fail in the written Test / viva voce / training / check can be reconsidered after three months. Without following the said rule and in violation of principles of natural justice, the order dated 22.10.2021 came to be passed against the appellant. Thus, according to the appellant, misleading statement was given to the effect that he is not undergoing training, which affect the reputation of the appellant, besides causing serious civil and pecuniary consequences. Therefore,



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the appellant prayed to set aside the order passed by the fourth respondent dated 22.10.2021.

13. Subsequent to the filing of the appeal viz., WA No.298 of 2022, the appellant preferred W.P.No.1225 of 2023 seeking a direction to the second respondent viz., Director General of Civil Aviation to dispose of his representations dated 16.07.2021 and 21.12.2022 by taking action against Capt.R.S.Sandhu, Capt.S.Velraj and Capt.T.P.S.Dhaliwal as per the Civil Aviation Regulations (C.A.R) Section 7, Series I, Part II, issue II and Operations Circular 02 of 2013, within a time frame. It is stated therein that the said officers including Captain N.Shivaramakrishnan, in their official capacity, acted against the appellant, due to personal animosity. It is further submitted that the report of the committee constituted to find out as to why the appellant should not be removed from the post of Check Pilot for the alleged incident that had taken place at Muscat AI 908 on 15.07.2012, was not furnished to him. It is also stated that in the training committee meeting, it was projected as if the appellant lacks interpersonal relationship. According to the appellant, in a normal course, a pilot should not be permitted to fly after an adverse report, whereas, his flying was not discontinued nor any counselling was given and on 09.12.2012, apology was demanded from the appellant and based on his apology letter, standardisation route checks on 29.01.2023 and 27.03.2013 were done. Therefore, the appellant stated through



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his representations that there is a serious lapse in the procedure adopted by the officials and hence, appropriate action has to be taken against them.

14. Per contra, the learned senior counsel appearing on behalf of the respondent / Air India Limited, submitted that the appellant lost his status as Check Pilot due to his negligence in the year 2012. When the matter was placed before the Grievance Committee for taking action against him, the Grievance Committee decided in his favour. However, the Training Committee considered his case and stated that he must mandatorily take an additional course for the safety of the passengers i.e., Safety Enhancement Training (SET). However, the appellant did not accept the decision taken by the Training Committee and sent letters objecting to it. On many occasions, he refused to undergo training by citing various reasons, such as, illness of a family member, etc. Moreover, he demanded the Training Committee to provide an Airbus if he is to be sent for training. Considering the attitude of the appellant, the Training Committee held that it amounted to lack of integrity and decided that he cannot be given Check Pilot status again. Aggrieved by this decision, he filed two writ petitions viz., one for the implementation of the decision taken by the Grievance Committee, and another was to set aside the decision taken by the Training Committee. Both the writ petitions got dismissed on 15.06.2016. Then, he filed review applications, which also got dismissed on 15.09.2016. Challenging the dismissal of the two writ



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petitions and two review applications, he filed four Writ Appeals, all of which were dismissed on 28.09.2018. Against these, four fresh review applications were filed, and these cases also got dismissed on 20.12.2019. Furthermore, he had also approached the Apex Court challenging the orders passed in the writ appeals and the review applications, and the Apex Court also dismissed all the cases. The learned senior counsel would further submit that the appellant made a fresh representation dated 24.11.2020 to the DGCA regarding the accident that took place in the year 2012. He retraced the entire facts and underlined that the then Training Committee had asked him to take SET and specifically questioned the DGCA as to whether he should go for training or if it can be waived off. The learned senior counsel also stated that the said representation did not make any reference to the legal proceedings initiated by him against the respondents herein. The DGCA, upon receipt of the representation, referred the matter to Air India, which disposed of the same on 25.10.2021, categorically stating that already 8 years have passed, and now, the appellant cannot be sent for training. Therefore, the request made by the appellant was rejected. Hence, W.P.No.1225 of 2023 has been filed by the appellant, praying for the issuance of a Writ of Mandamus for taking action against senior Air India officials for rejecting his representation for the alleged bias and *mala fides*, however, without arraying Air India Limited, as a party to the same.



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15. As regards the prayer made in W.P.No.25984 of 2021, the learned senior counsel submitted that as the appellant did not show any improvement, he was not allowed to function as a Check Pilot. Further, when he was asked to attend classes scheduled on 04.04.2014, the appellant sent a reply stating that he is unable to attend the classes due to the ill-health of a family member, and on 19.08.2014, he sent an email stating: "I am unable to go till I am upgraded on Airbus," and hence, the Technical Committee, on 02.02.2015 concluded that the appellant is "not fit to be taken up as a training captain". Thus, according to the learned senior counsel, there is no perversity in the order so passed by the respondent authorities and hence, no writ is maintainable. It is also submitted that though the matter has already been settled, the appellant has been keeping on filing one case after another. With these submissions, the learned senior counsel prayed for dismissal of all these cases.

16. We have also heard the learned counsel appearing for the other respondents in the all the cases and also perused the records.

17. The facts remain that the appellant was a Check Pilot with Air India Limited until October 2011 when he was removed from that role due to his alleged misconduct and integrity. Originally, the request of the appellant seeking restoration of his Check Pilot status, was considered in his favour by the



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Grievance Committee. However, the Training Committee found deficiencies in his knowledge and recommended safety training before restoration. It appears from the records that the appellant refused to avail of the opportunities for retraining and demanded training only on specific aircraft models. In such circumstances, by order dated 02.02.2015, the Training Committee unanimously concluded that the appellant lacks integrity and hence, he could not be considered for Line Training Captain revalidation. The decision of the Training Committee was tested by the appellant by filing writ petitions, writ appeals and review applications before this court as well as SLP before the Hon'ble Supreme Court. Yet, all his attempts ended in vain. Thus, the rejection of the request of the appellant for restoration of his check pilot status, has attained finality in the earlier rounds of litigation itself.

18. Now, the appellant has sought the very same relief of restoration of his Check Pilot status raising the similar grounds as have been made in the previous proceedings, without making any new grounds. Additionally, the appellant prayed to quash the adverse remarks made against him that he is unfit to be a training captain, besides seeking a direction to the authorities to take action against the officials of Air India Limited for the alleged procedural lapse committed by them. However, no clear-cut materials have been produced to substantiate the same. Further, the records reveal that the appellant, without



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availing of the opportunities provided to restore his Check Pilot status, had challenged the decision of the Committee, by filing one case after another, in the court of law, for a considerable number of years and the same had also ended in failure. Therefore, the present proceedings initiated by the appellant are nothing but re-litigating the earlier proceedings and the same cannot be entertained as it is tantamount to abuse of process of law. Even by applying the principle of *res judicata*, the appellant is estopped from raising new pleas for the old relief.

19. At this juncture, it would be appropriate to refer to the decision of the Hon'ble Supreme Court in *K.K.Modi v. K.N.Modi and others* [(1998) 3 SCC 573, wherein, it was held that it is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. This re-agitation may or may not be barred as *res judicata*. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of the court. It was further held by the Hon'ble Supreme Court that if a spurious claim is made in a case, it may also amount to an abuse of process of the court. In the light of the same, this court is of the opinion that the present cases filed by the appellant, which are absolutely groundless, are frivolous or vexatious proceedings and therefore, the same are liable to be dismissed.



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20. In fine, the writ appeal as well as the writ petitions are dismissed.

However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D, J.] [M.S.Q, J.]
12.03.2024

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Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No

To

- 1.The Secretary,
Union of India,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi - 110 003.
- 2.The Chairman and Managing Director,
Air India Limited,
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.



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5. Central Training Establishment,
Air India Limited,
Represented by its Director of Training,
(CTE) Ferozguda, Hyderabad - 500 001.

6. Air India Limited,
General Manager,
Operations Department,
Meenambakkam,
Chennai - 600 027.

7. The Director General,
Directorate General of Civil Aviation,
Aurobindo Marg, Opp. Safdarjung Airport,
New Delhi 110 003.



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12.03.2024