



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 12763/2009 & CM APPLs. 50644/2022, 50647/2022

CAPTAIN DILIP DESMOND

.....Petitioner

Through: Mr. Shree Prakash Sinha, Mr.
Rakesh Mishra, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondent

Through: Ms. Anjana Gosain, Mr. Anuj
Kumar, Advocates for UoI.
Ms. Rukhmini Bobde, Mr. Amit
Mishra, Mr. Azeem Samuel, Mr.
Akhil K., Mr. Shivam Goel,
Advocates for R-2.
Ms. Saloni Jagga, Advocate for
AIAHL.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

21.03.2025

CM APPL. 16506/2025 (for condonation of delay)

1. This is an application filed by respondent No. 2 – Air India Ltd. [“AIL”], for condonation of delay of 5 days in filing an affidavit in terms of the order of this Court dated 21.02.2025.
2. For the reasons stated, the application is allowed, the delay is condoned, and the affidavit is taken on record.

W.P.(C) 12763/2009

1. The last order of the Court dated 21.02.2025, reads as follows:

“1. The petitioner, who claims to be an employee of Air India Limited [“AIL”], has filed this writ petition under Article 226 of the



Constitution, for payment of alleged shortfall in flying allowance, revised wages, etc.

2. *During the pendency of the writ petition, AIL has been privatised by sale of shares to Talace Private Limited. Air India Limited has therefore filed an application [CM APPL. 50647/2022], seeking dismissal of the writ petition. Ms. Rukhmini Bobde, learned counsel for respondent-AIL, relies upon the judgment of the Supreme Court in R.S. Madireddy v. Union of India [2024 SCC OnLine SC 965], which has also been followed in several judgments of this Court.*

3. *In the meanwhile, the petitioner has filed an application [CM. APPL. 50644/2024] for impleadment of another company by the name of Air India Assets Holding Limited [“AIAHL”], which according to the petitioner is now liable for his alleged dues.*

4. *Mr. Shree Prakash Sinha, learned counsel for the petitioner, accepts that in accordance with the judgment in R.S. Madireddy (supra.), the petitioner’s claims would have to be agitated by way of a civil suit, if the claims are to be agitated against AIL. However, he submits that the application filed by AIL is not categorical as to whether the liabilities of AIL have remained with the said company [which has since been privatised], or have become liabilities of AIAHL, which remains a public sector company. He apprehends that if the writ petition is dismissed and a suit is filed, the suit will be resisted on the ground that AIL is no longer responsible for the petitioner’s dues.*

5. *In my view, the question is, at least prima facie, answered by the application itself, where AIL seeks dismissal of the writ petition on the aforesaid ground, and does not assert that the liability has been transferred to any other party. However, Mr. Sinha is right in saying that there is no categorical statement to this effect. To allay the apprehension of the petitioner, AIL is directed to file an affidavit within two weeks stating clearly as to whether it continues to bear the liability, if any, for the claims asserted by the petitioner, and if not, whether the liability has been transferred to any other party, with requisite details and documents. AIAHL is also directed to file an affidavit, stating as to whether it has assumed any liability for the claims sought by the petitioner.*

6. *It is made clear that neither AIL nor AIAHL are expected to admit the claims of the petitioner; all that is being sought is clarity as to the party against whom the petitioner’s claims can be asserted.*

7. *List on 21.03.2025, in the category of “for Admission” matters.”*

2. Pursuant to this order, respondent No. 2- AIL, has filed an affidavit



dated 12.03.2025, which states, *inter alia*, as follows:

“11. It is respectfully submitted that in case there are any dues in respect of the employment of the Petitioner with the Respondent No. 2, as claimed by him in the present Writ Petition, pertaining to the period when the Respondent No. 2 was under the control of Government of India, the said liability shall continue to be with the Respondent No. 2, post its privatization on 27.01.2022.

12. It is however made clear that the contents of the present Affidavit filed on behalf of Respondent No. 2 shall not be construed as admission of any liability of any claims made by the Petitioner. Respondent No. 2 reserves its right to defend its case on merits in the proceedings which may be instituted by the Petitioner against Respondent No. 2. In case the Petitioner succeeds in establishing his claims before an appropriate forum, the liability of pay shall rest on Respondent No. 2.”

3. In view of the above, the writ petition, alongwith the pending applications, is disposed of with liberty to the petitioner to take alternative remedies as may be available to him in law. AIL will be bound by the statements recorded above.

PRATEEK JALAN, J

MARCH 21, 2025

“Bhupi/JM”/