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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6681/2019

CAPTAIN ARVIND KATHPALIA

.....Petitioner

Through: Mr. Pardeep Dahiya, Ms. Mahima
Benipuri and Mr. Rakshit, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC
with Mr. Amit Kumar Rana,
Advocate for UOI.
Ms. Rukmini Bobde, Mr. Amit
Mishra, Mr. Azeem Samuel,
Ms. Mitakshara Goyal, Mr. Nakul
Gandhi, Mr. Vaibhav Kharbanda,
Mr. Shivam Goel and Ms. Shrijeta
Pratik, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.03.2026

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1. The present petition assails two interconnected orders concerning the Petitioner's continuance as Director (Operations), Air India Limited. By the first, dated 13th November, 2018, issued by the Ministry of Civil Aviation, the Petitioner was relieved from the charge of that office with immediate effect. By the second, dated 11th December, 2018, the Appointments Committee of the Cabinet approved his removal from the said post with effect from 13th November, 2018. The Petitioner accordingly seeks quashing of both orders, together with all consequential service benefits.
2. The material facts are not really in serious dispute. The Petitioner joined Air India (Respondent No. 3) in 1988 as a pilot. On 9th March, 2016, the Public Enterprises Selection Board issued a notice inviting applications



for the post of Director (Operations), Air India Limited. The job description annexed to that notice described the post as a Board level office carrying responsibility for all three 'Air Operator's Permits' of the Air India group and, more particularly, for Flight Operations, Ground Operations, Flight Safety and Training (Operations). One of the express eligibility requirements for the post was that the candidate should be a commercial pilot holding a valid Indian ATPL with extensive flying experience.

3. The Petitioner applied for the post and was appointed as Director (Operations) on 27th June, 2017, in exercise of powers under Article 98 of the Articles of Association of Air India Limited, and assumed charge on the same day. The appointment order stipulates a tenure of five years from the date of assumption of charge, or until superannuation or further orders, whichever is earlier.

4. Before that appointment, an incident had occurred on 19th January, 2017, when the Petitioner operated a flight without undergoing the pre-flight breath analyser test. For that infraction, the privileges of his licence were suspended for three months. The Petitioner says that incident had been fully known to the authorities and, despite that, he was appointed as Director (Operations). According to him, the said episode could not later be revived to his prejudice.

5. The immediate trigger for the present petition is the incident of 11th November, 2018. On that date, while scheduled to operate flight AI-111 from Delhi to London, the Petitioner tested breath analyser positive. On 12th November, 2018, the Directorate General of Civil Aviation (Respondent No. 2) suspended the privileges of the Petitioner's pilot licence for a period of three years with effect from 11th November, 2018.



6. On the next day, namely 13th November, 2018, the Ministry of Civil Aviation (Respondent No. 1) issued the first impugned order. That order expressly took note of the DGCA order dated 12th November, 2018, the serious nature of the transgression, and the earlier suspension of flying licence for three months. On that basis, approval was accorded for relieving the Petitioner from the charge of Director (Operations) with immediate effect. Additional charge of the post was placed on another officer.

7. The Petitioner thereafter submitted a representation. In that representation, he asserted that his appointment having been made through the ACC, action to displace him also had to be taken at that level. He further claimed that his flying licence and his office as Director (Operations) occupied distinct fields, and that he had been relieved without notice or process.

8. On 11th December, 2018, the second impugned order came to be issued. By that order, the ACC approved the proposal for removal of the Petitioner from the post of Director (Operations), Air India Limited, with effect from 13th November, 2018. Aggrieved, this writ petition was filed.

Petitioner's case

9. The Petitioner's challenge rests on four principal submissions. First, he says that neither the order dated 13th November, 2018 nor the order dated 11th December, 2018 was preceded by any show cause notice or opportunity of hearing, and that the impugned action is therefore vitiated by breach of natural justice. Second, he relies on Article 311(2) of the Constitution and submits that he could not have been removed from office without an inquiry and a reasonable opportunity of being heard. Third, he says that the earlier incident of 19th January, 2017 had already resulted in suspension of licence



privileges for three months and, in any event, had occurred before his appointment as Director (Operations). Since the authorities nevertheless appointed him thereafter, that incident, according to him, could not lawfully be used against him while relieving or removing him from the post. Fourth, he argues that the incident of 11th November, 2018 related to his role as a pilot and not to his office as Director (Operations). The scope of duties of the two jobs is different and the office of Director (Operations) was essentially administrative in nature. Once his licence had already been suspended by the DGCA for three years, removal from the post amounted to a second punishment for the same event and offended Article 20(2) of the Constitution.

10. The Petitioner also raises concerns regarding the procedural followed in relation to the incident dated 11th November, 2018. He questions the correctness and reliability of the breath analyser test and alleges procedural irregularities, including denial of an opportunity to undergo an alternative or confirmatory medical examination. He also asserts that the action was tainted by *malafides*.

Respondents' case

11. The Respondents contest the petition on maintainability as well as on merits. Respondent No. 3 submits that no writ can now be maintained against Air India after privatisation. In support of that objection, reliance is placed on the decisions in ***R.S. Madireddy & Anr. v. UOI & Ors.***,¹ the judgment of this Court in ***Shailender Chopra v. Air India & Anr.***,² and the subsequent proceedings before the Supreme Court declining to take a

¹ 2024 SCC OnLine SC 965.

² 2025: DHC: 9407-DB.



different view.³

12. On merits, the Respondents submit that the Petitioner's case rests on a false premise. The post of Director (Operations) was not a detached administrative office, but a highly specialised Board-level operational position, directly concerned with flight operations, ground operations, safety and training, requiring a valid Indian ATPL and an impeccable safety record. The suspension of licence privileges for three years following a BA-positive finding struck at the very foundation of the Petitioner's continuance in office and resulted in loss of confidence in his ability to discharge such functions. The impugned action was thus a consequence of ineligibility and loss of institutional confidence, and not a punitive measure requiring a prior inquiry.

13. The Respondents further submit that the earlier incident of 19th January, 2017 was not treated as a fresh or independent ground, but was taken into account as part of the surrounding background to assess recurrence and failure to mend course after an earlier suspension. The breath analyser test conducted on 11th November, 2018 was in accordance with the applicable Civil Aviation Requirements and deny any procedural irregularity or *malafides*.

14. In any event, the Petitioner's appeals against the DGCA action in relation to both the 2017 and 2018 incidents have been rejected by reasoned orders dated 16th September, 2019 passed by the Secretary, Civil Aviation, after affording opportunity of hearing. Therefore, the Petitioner's factual challenge to the underlying regulatory action therefore no longer survives.

³ *Shailender Chopra v. Air India Ltd. & Anr.* in SLP (C) Dairy No. 5461/2026 decided on 12th March, 2026.



Discussion and reasons

15. In view of the above facts and contentions, the controversy narrows to three questions. The first concerns the maintainability of the writ petition against Air India Limited. The second is whether the challenge to the impugned orders remains open against the Union of India and the authorities from whom those orders emanate. The third is whether the Petitioner has made out any ground in law to justify interference with the impugned action.

16. The maintainability objection taken by Respondent No. 3 merits acceptance. On the date this petition is being decided, Air India no longer answers the description of “State” within the meaning of Article 12 of the Constitution. The authorities cited on behalf of the Respondents support the position that no writ can now issue against Air India merely because the events in question arose at a time when it was still government-owned. The prayer for relief against Respondent No. 3, therefore, cannot be sustained in writ jurisdiction.

17. That said, the impugned orders dated 13th November, 2018 and 11th December, 2018 were issued through the Ministry of Civil Aviation, and the latter expressly records approval of the ACC. The Petitioner is therefore entitled to contend that the challenge survives, at least in form, against the Union of India and the public authorities whose decisions are reflected in those orders. It would not be correct to dismiss the entire petition on the threshold without examining that limited aspect.

18. The Court therefore proceed to consider the challenge to the impugned orders on the footing most favourable to the Petitioner, namely that the challenge to the actions of the Union and the ACC is maintainable, even though no independent writ relief can now issue against Air India.



19. The first and most significant aspect of the matter is the nature of the office held by the Petitioner and its intrinsic linkage with his status as a pilot. The PESB notice and the governing job description make it clear that the post of Director (Operations) was not a detached administrative assignment but lay at the operational core of the airline. The incumbent was responsible for flight operations, safety, training, and all Air Operator's Permits.

20. The eligibility conditions reinforce this position. A valid Indian ATPL, substantial flying experience, and a demonstrable record as a Flight Captain were not incidental qualifications but foundational requirements for holding the post. The office was thus structurally and functionally intertwined with the Petitioner's standing as a licensed pilot. The contention that the two operated in separate compartments cannot be accepted.

21. Once this position is appreciated, the effect of the DGCA order dated 12th November, 2018 assumes determinative significance. The suspension of the Petitioner's ATPL for a period of three years did not merely affect his ability to fly; it struck at a necessary condition for holding the office of Director (Operations). The impugned order dated 13th November, 2018 relieving him from charge must therefore be understood as arising primarily as a direct administrative consequence of the loss of an essential qualification, rather than as an independent punitive measure.

22. Seen in this light, the reliance placed on Article 311(2) is misplaced. The action in question is not one of removal by way of punishment following disciplinary proceedings, but one arising from the Petitioner's inability to meet the eligibility criteria for the post. It is well settled that where an incumbent does not possess a mandatory qualification for holding



an office, his continuance on that office becomes untenable, and discontinuance may follow as a matter of consequence rather than as a punitive measure.⁴ The Petitioner's relief from the post of Director (Operations) falls squarely within this principle.

23. Insofar as the foundational event, namely, the suspension of his licence, is concerned, the record shows that the Petitioner availed of appellate remedies against the DGCA's order and was granted a full hearing. His submissions were considered, and reasoned orders came to be passed on 16th September, 2019 rejecting his contentions. The condition which rendered him ineligible for the post thus stood tested in proceedings consistent with the requirements of natural justice.

24. The argument founded on Article 20(2) is equally without merit. The suspension of the Petitioner's licence and his consequent relief from a safety-sensitive operational post do not constitute two punishments for the same offence. The latter is not penal in character but is a necessary administrative consequence flowing from the former. The doctrine of double jeopardy has no application in such a situation.

25. The submission regarding the earlier incident of 19th January, 2017 does not advance the Petitioner's case either. It is correct that the said incident was within the knowledge of the authorities at the time of his appointment in June 2017. However, the impugned action does not treat it as a standalone ground. It is referred to only as part of the background to indicate recurrence and to assess the overall suitability of the Petitioner in a safety-critical role. Such use of antecedent conduct cannot be characterized as impermissible.

⁴ *Mohd. Sartaj & Anr. v. State of U.P. & Ors.* (2006) 2 SCC 315.



26. This brings the Court to the procedural objection regarding absence of prior notice before the order dated 13th November, 2018. While it is true that no pre-decisional hearing preceded that order, the context in which the decision was taken cannot be ignored. The authorities were confronted with an immediate situation arising from the suspension of the Petitioner's licence, directly impacting a critical operational position.

27. In any event, the decision did not attain finality without affording the Petitioner an opportunity to represent. Prior to the final order dated 11th December, 2018, the Petitioner submitted a representation raising all his objections. These included the requirement of ACC approval and the alleged distinction between his flying role and his position as Director (Operations). That requirement stood satisfied when the ACC approved the proposal on 11th December, 2018.

28. In these circumstances, the Petitioner has failed to demonstrate any real prejudice. His principal contention, that his role as a pilot was wholly distinct from his office, has already been found untenable. Once that premise is rejected, the absence of a pre-decisional hearing at the interim stage does not vitiate the final decision.

29. The impugned orders, when viewed in their entirety, disclose a consistent line of reasoning. The order dated 13th November, 2018 was in consequence of the DGCA's action, while the order dated 11th December, 2018 gave final effect to that decision upon approval by the ACC. The impugned action taken is thus directly traceable to relevant considerations arising from the nature of the post and the eligibility conditions governing it. Seen in the light of the nature of the office and the eligibility conditions



governing it, the action cannot be characterised as perverse, arbitrary, founded on irrelevant considerations, or otherwise unsustainable in law.

Conclusion

30. The objection to maintainability, insofar as Air India Limited is concerned, succeeds. No independent writ relief can now be granted against Respondent No. 3. Even if the challenge to the impugned orders is examined against the Union of India and the authorities whose decisions are reflected in those orders, the Petitioner has failed to make out any case for interference.

31. The writ petition is accordingly dismissed. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

SANJEEV NARULA, J

MARCH 16, 2026

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