

SUPREME COURT OF INDIA

Bhupinder Pal Singh

Vs.

Director General of Civil Aviation

(S.V. Patil and Arijit Pasayat JJ.)

04.03.2003

ORDER

Shivaraj V. Patil, J.

1. In this appeal, the appellant has assailed the judgment and order of the Division Bench of the High Court dated 23.2.2000 dismissing his writ petition. The appellant joined the services of the second respondent as a Co-Pilot after a distinguished service in the Indian Air Force. He was conferred with privileges of a check Pilot in accordance with the procedure prescribed by the first respondent. The respondent No.2 constituted a Permanent Investigation Board (PIB) to investigate incidents/accidents to its aircrafts. It is stated that on 15.4.1998 the appellant was the Pilot in Command of Flight AI-802 which landed in Delhi due to the chocks not being in place on the wheels. On removal of brakes by the appellant, the aircraft rolled back and hit the aerobridge causing damage to one of its doors. The PIB of the second respondent conducted investigation into the said incident. The appellant's statement was recorded. The statements of six other persons were also recorded behind the back of the appellant without giving an opportunity to him to cross-examine them. The PIB submitted its report on 7th May, 1998. On account of the said incident, the appellant was removed from his position and status of Check Pilot. The appellant assailed the order removing him from the position of Check Pilot by filing writ petition before the High Court stating that it was passed in violating of principles of natural justice. The first report of investigation dated 7th May, 1998 was rejected by the Director General of Civil Aviation (DGCA) and a direction was given for another investigation. In the writ petition, a statement was made by the respondents on 8.6.1999 that Air India would not act on the report of the PIB dated (SIC).5.1998. In that view, the writ petition was withdrawn. Thereafter, the appellant did not receive any notice from the DGCA for holding a fresh inquiry into the matter. However, the second order dated 21.7.1999 was passed whereby he was disqualified as a thick Pilot. The appellant filed Writ Petition No. 53/2000 questioning the validity and correctness of the order dated 21.7.1999. The High Court in the impugned order was noticed that the first report dated 7.5.1998 suffered from certain lacunas. A perusal of the impugned order indicates that no opportunity was given to the appellant when the investigation was made for the second time and a fresh inquiry was held on the bias of which the order dated 21.7.1999 was passed. The High Court proceeded on the assumption that re-investigation was not in the nature of de novo inquiry and dismissed the writ petition. Hence, this appeal.

2. On 29.1.2003 at the request of the learned counsel for the respondents, three weeks' time was granted to file counter on their behalf. When the matter was taken up for hearing on 25.2.2003, the learned counsel representing the respondents submitted that no counter could be filed. He submitted that the appellant has already superannuated and this appeal itself has become infructuous. The learned counsel for the appellant strongly contended that the position of Check Pilot was a matter of prestige and status and certain monetary benefits also were attached to the said position: the order dated 21.7.1999 was one passed without giving any opportunity to the appellant when inquiry was held either on the first occasion or in the fresh inquiry made for the second time. He added that the order passed removing the appellant from the position of Check Pilot, in the circumstances, was clearly in violation of principles of natural justice.

3. Looking to the assertion made by the appellant that no opportunity was given to him during the investigation or inquiry based on which the order was passed on 21.7.1999 adversely affecting his rights and status and in the absence of any counter affidavit denying the same either before the High Court or before this Court, there is no impediment or difficulty in holding that the order dated 21.7.1999 was passed in violation of the principles of natural justice. Even a perusal of the impugned order indicates that no opportunity was given to the appellant. The High Court proceeded on wrong assumption that the second inquiry was not a de novo inquiry. It appears to us that no opportunity was given to the appellants either during the inquiry made for the first time or in the second inquiry. Since the order passed is in clear violation of principles of natural justice, it is unnecessary for us to do into the merits of the other contentions raised. In the normal course, we would have set aside the order giving liberty to the respondents to hold a fresh inquiry. Since the appellant was superannuated and at this length of time, we think it is neither appropriate nor desirable to direct a fresh inquiry.

4. Under these circumstances, we think it just and appropriate to set aside the order dated 21.7.1999 passed against the appellant removing him from the status of Check Pilot and restore him the position of Check Pilot but without granting him any monetary benefits except awarding compensation of Rs. 25,000/-.

5. In the result, the impugned order is set aside, the order dated 21.7.1999 passed against the appellant is also set aside and the position of Check Pilot is restored to the appellant. An amount of Rs. 25,000/- shall be paid as compensation by respondent No. 2 to the appellant. The appeal is allowed in the above terms with cost quantified at Rs. 10,000/- to be paid by respondent No. 2 to the appellant.