



\$~44

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: September 21st, 2026***

CNR No. DLHC010269182026

+ **W.P.(C) 8532/2026, CM APPL. 39633/2026 & CM APPL. 64413/2026**

CAPTAIN DALIP SINGH

.....Petitioner

Through: Mr. Davesb Bhatia, Mr. Sadre
Alam & Mr. Mohd. Danish,
Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ravi Krishanchandna &
Mr. Siddhant Choudhary, Adv.
for NBCC.
Mr. Anjana Gosain, Adv. for
AAI.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. By the present petition, the petitioner essentially challenges the order dated 11.02.2026 (hereafter '**impugned order**') passed by the learned Joint Director General, DGCA pursuant to which the petitioner's pilot license was suspended for a period of three months with effect from 15.01.2026 and an endorsement on the petitioner's license was directed to be made for testing positive for blood alcohol content in pre-flight breath analyser test ('**BA Test**').
2. The petitioner consequently also challenges the order dated 28.04.2026 passed by the Director General of Civil Aviation whereby



the appeal preferred by the petitioner against the impugned order was dismissed and the punishment imposed on the petitioner was upheld.

3. Succinctly put, on 15.01.2026, the petitioner was scheduled to operate flight no. IX-1521 (CCU-IXA). Prior to the same, the petitioner was subjected to undergo a pre-flight BA examination where he tested positive for alcohol, and his first BA test reading was 0.014%. The petitioner thereafter opted for a change of BA equipment for his second BA test. Thereafter, the second BA test was conducted on an alternate BA equipment and the petitioner's second BA test reading was 0.009% BAC.

4. On the basis of the aforesaid, the petitioner was found to be in contravention of Section 5, Series F, Part III of the Civil Aviation Requirements ('CAR') and by the impugned order dated 11.02.2026, the following punishment was imposed on the petitioner:

"3. Now therefore, in exercise of the powers conferred under Clause (a) of Sub-Rule (3) of Rule 19 of the Aircraft Rules, 1937 and delegated under Ministry of Civil Aviation and Tourism Notification No. S.O.727 (E) of October 1994, the undersigned hereby suspends in public interest, the pilot license held by Capt. Dalip Singh, ATPL-12842 for a period of three months from 15-01-2026 i.e, the date on which he tested BA positive and same shall be endorsed on his pilot license.

4. Capt. Dalip Singh, ATPI-12842 is directed to submit his pilot license to DGCA for endorsement."

5. Aggrieved by the impugned order, the petitioner had preferred an appeal under Section 3B of the Aircraft Rules, 1937. As noted above, by order dated 28.04.2026, the appeal preferred by the petitioner was dismissed and the punishment imposed on the petitioner was upheld.

6. Aggrieved by the same, the petitioner has preferred the present



petition.

7. The learned counsel for the petitioner submits that the impugned order is perverse and is liable to be set aside. He submits that before the punishment order was passed on 11.02.2026, the DGCA had issued Rev-05 to the CAR, Section 5 Series F, Part III on 09.02.2026. He submits that as per paragraph 8.1 of Rev-5 to the CAR, for first time BA readings up to 0.009%, the only punishment contemplated is *counselling*.

8. He submits that the petitioner's BA test reading was precisely 0.009%. He submits that while the incident occurred on 15.01.2026, the impugned order was passed only on 11.02.2026, that is, after Rev-5 to the CAR was enforced on 09.02.2026. He consequently submits that since the earlier Rev-4 was already superseded by Rev-5 at the time when the impugned order was passed, the respondent authorities ought to have considered the revised requirements while passing the impugned order. He consequently submits that the impugned order is liable to be set aside.

9. *Per contra*, the learned counsel for the respondents submits that the impugned order is passed in consonance with the rules and the same does not warrant any interference by this Court. She submits that at the time when the petitioner tested positive in the BA test on 15.01.2026, paragraph 8.1(a) of Rev-04 to the CAR was applicable as per which the only prescribed punishment was three months suspension for first time offence.

10. She submits that while Rev-05 to the CAR was issued on 09.02.2026 and the impugned order was passed subsequently on 11.02.2026, considering that the violation itself dated back to



15.01.2026, only the rules that were in force at the time when the violation occurred could have been considered. She consequently submits that the punishment imposed on the petitioner was in consonance with Rev-04 to the CAR. She further submits that the petitioner, in any event, has already undergone the suspension of three months and consequently submits that the impugned order warrants no interference by this Court.

11. I have heard the counsel and perused the record.

12. The petitioner in the present case is aggrieved by the impugned order as per which, the petitioner, upon being tested positive in the BA test with his reading being 0.009% was granted suspension for a period of three months along with an endorsement in his license in consonance with Rev-04 to the CAR. It is the petitioner's case that while the violation itself dated back to 15.01.2026, considering that the final punishment order was passed on 11.02.2026, and at that time Rev-05 to the CAR had already been issued on 09.02.2026 which provided for a lesser penalty, the same should have been considered by the respondent authorities while passing the impugned order.

13. The said stance has been vehemently opposed by the learned counsel for the respondents thereby contending that since the violation occurred on 15.01.2026, the punishment order ought to have been in accordance with the framework existing at the time when the violation took place.

14. The only question that falls for the consideration of this Court is thus whether the amended provisions being Rev-05 to the CAR, which provided for a lesser penalty, ought to have been applied at the time of passing of the final punishment order when the violation itself



preceded the amendment.

15. Before this Court adverts to delve into an analysis of the same, it is pertinent to take note of the penalty stipulated in the revised Rev-05 to the CAR issued on 09.02.2026 which reads as under:

“8.1 For confirmatory BA readings up to 0.009 % BAC or mg/dl for the first time, the crew shall be off rostered and subjected to counselling. For scheduled operators the counselling shall be carried out by the Chief medical officer and the Chief of Flight Safety on adverse impact of alcohol and subsequently released for flight. In case of operators other than scheduled operators, the counselling shall be carried out by the Accountable Manager and Chief of Flight Safety/CFI. All such cases shall be reported to DGCA, however, this shall not be endorsed on crew license/approval. Further any repeat BA positive case shall be considered as first violation and shall attract enforcement action as per the table given in para 8.2 and para 9.1.”

16. As is manifest from a reading of paragraph 8.1 of Rev-05 to the CAR dated 09.02.2026 as quoted *supra*, for confirmatory BA readings up to 0.009% for the first time, the crew shall only be subjected to counselling and there shall be no endorsement to the effect on the license. As opposed to this, under the earlier Rev-04 to the CAR, BA test had to be 0.00%. Further, if the crew tested positive in the BA test even by the slightest percentage, a punishment of 03 months suspension for first time violation was attracted along with an endorsement in the license.

17. After giving a careful consideration to the rival contentions raised on behalf of the parties, this Court arrives at the conclusion that the stance taken on behalf of the respondents that only the punishment prevalent at the time when the violation took place ought to be applicable, though attractive at first blush, cannot and ought not to be countenanced. This Court is well aware that unless specified all



amendments affecting substantive rights ought to be applied prospectively. However, that being so, this Court is unpersuaded by the stance that when an amendment provides for a lesser penalty, the same also would not be applicable unless expressly provided.

18. In that regard, reference may be had to the decision of the Hon'ble Apex Court in the case of ***T. Barai v. Henry Ah Hoe : (1983) 1 SCC 177***. In the said case, the Hon'ble Apex Court while dealing with the applicability of Section 16A of the Prevention of Food Adulteration Act, 1954 and whether the accused therein ought to be awarded a reduced punishment, had delineated that when a new enactment created new offences or enhanced punishment for a particular type of offence, neither can any person be convicted for such *ex post facto* law nor can the enhanced punishment prescribed by the amendment be imposed. The Hon'ble Apex Court, however, observed that when punishment for any offence is reduced, there is no reason why the accused should not have the benefit of the reduced punishment. In observing so, the Hon'ble Apex Court noted as follows:

“22. It is only retroactive criminal legislation that is prohibited under Article 20(1). The prohibition contained in Article 20(1) is that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence prohibits nor shall he be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. It is quite clear that insofar as the Central Amendment Act creates new offences or enhances punishment for a particular type of offence no person can be convicted by such ex post facto law nor can the enhanced punishment prescribed by the amendment be applicable. But insofar as the Central Amendment Act reduces the punishment for an offence punishable under Section 16(1)(a) of the Act, there is no reason why the accused should not have the benefit of such reduced punishment. The rule of beneficial



construction requires that even ex post facto law of such a type should be applied to mitigate the rigour of the law.”

(emphasis supplied)

19. While this Court is conscious that the case of ***T. Barai v. Henry Ah Hoe*** (*supra*) pertained to criminal offences, and the present case does not entail any criminal consequence, in the opinion of this Court, no distinction can be drawn on the same ground so as to deprive the petitioner of the rule of beneficial construction. This is because the very purpose of the rule of beneficial construction is to mitigate the rigour of law whenever any subsequent amendment so provides. The intent of beneficial construction is ameliorative and not punitive.

20. Consequently, the rule that any enactment or amendment must be construed as prospective as urged on behalf of the respondents, in the opinion of this Court, is not applicable in cases of a beneficial legislation. In such cases, when the intent of the amendment is beneficial, the same must be construed to apply retrospectively when the punishment order is pending considering. It would thus be extremely unjust to impose a higher punishment in juxtaposition with the punishment prescribed under the amended rule in force merely because the person awarded with the punishment had committed the offence prior in time.

21. In the present case, the BA Test reading of the petitioner stood at 0.009%. For the said level of alcohol, Rev-05 to the CAR implemented on 09.02.2026, contemplates only counselling as a form of punishment as opposed to three months suspension and an endorsement in the license as provided in Rev-04 to the CAR. While the violation itself dates back to 15.01.2026, considering that the final



2026:DHC:8179



punishment order was passed on 11.02.2026, the benefit of Rev-05 to the CAR which was issued on 09.02.2026 ought to have been extended to the petitioner.

22. In such circumstances, the impugned order cannot be sustained. While it is noticed that the petitioner has already undergone the period of three months suspension considering that no interim order was passed in the present case, the endorsement on the petitioner's license cannot be sustained.

23. In view of the aforesaid, the impugned order is set aside and the endorsement, if any, made on the petitioner's pilot license is directed to be removed.

24. The present petition along with pending applications stand disposed of in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 21, 2026
"SK"