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

+ **CONT.CAS(C) 927/2015 & CM APP Nos. 12100/2016, 25467/2016**

**DINESH AHLUWALIA AND ORS.** ..... Petitioners

Through: Mr.Divjyoti Singh, Ms.Avsi M. Sharma,  
Mr.Dinesh Ahluwalia, Advs. for petitioner  
with Petitioner No.1 in person.

Versus

**ARUNA GOPALKRISHNAN & ORS** ..... Respondents

Through: Ms. Anjana Gosain, Ms.Rabiya Thakur and  
Ms.Shalini Nair, Advs. for R3.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

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**10.04.2019**

The petitioners are aggrieved by the orders dated 09.10.2014 and 13.11.2014, wherein the respondents had undertaken to implement the recommendations of the Justice Dharmadhikari Committee, with effect from 01.07.2012.

On 09.10.2014 in W.P.(C) No. 5986/2014, the respondent-Air India Ltd. was directed to file an affidavit specifying the date from which the Implementation Committee would give effect to the recommendations of the Dharmadhikari Committee apropos the pay, allowance and perks payable to the Executive Pilots of the erstwhile Indian Airlines.

An affidavit was filed on behalf of Air India Ltd. on 12.11.2014, stating categorically that the “revised pay and allowance will be implemented with effect from 01.07.2012 for the category of Executive Pilots of the erstwhile Indian Airlines.”



On the basis of the said affidavit, the writ petition was disposed-off on the subsequent date i.e. on 13.11.2014.

Being aggrieved with the non-implementation of the aforesaid order, the petitioners filed the present petition. On 13.01.2016, this Court had observed, *inter alia*, as under:-

*“1. The petitioners are seeking initiation of contempt proceedings against the contemnors for wilful and deliberate violation of the order dated 13<sup>th</sup> November, 2014 in WP(C) 5986/2014 whereby this Court accepted the statement on behalf of the Air India to complete the entire process of implementation of salary and allowances payable to all executive pilots within one year from the date of the affidavit. The writ petition was disposed-off on the basis of the statement made on behalf of the Air India. The order dated 13<sup>th</sup> November, 2014 is reproduced hereunder:*

*“1. Pursuant to the order dated 09.10.2014, an affidavit has been filed by the General Manager (Industrial Relation) on behalf of the respondent No.2/AIL, stating inter alia that the Implementation and Anomaly Rectification Committee has finalised the draft salary structure for the Executive Pilots and the respondent No. 2/AIL has invited the representatives of the Executive Pilots of both the erstwhile company, i.e., Air India Ltd. and the Indian Airlines to have discussions in the matter. After the discussions are undertaken, the proposed draft of the salary and allowances to be paid to the Executive Pilots shall be placed before the BOD of the respondent No. 2/AIL and thereafter, a formal proposal shall be sent to the Ministry of Civil Aviation, for approval.*

*2. It is stated in the affidavit that the entire process of implementation of the salary and allowances payable to all Executive Pilots will be completed by the respondent No.2/AIL within one year from the date of filing of the affidavit and for the revised pay and allowances, the date of implementation shall be from 01.07.2012, for the category of Executive Pilots of the*



*merged Air India Ltd the aforesaid affidavit is taken on record.*

3. *Mr. Nigam, learned Senior Advocate appearing for the petitioners states that as an interim measure, the respondent No.2/AIL may be directed to release some amount of the allowances due and payable to the petitioners, as a tide over.*

4. *The petitioners shall be at liberty to make the aforesaid request directly to the respondent No. 2/AIL, which shall be taken into consideration and appropriate orders shall be passed thereon within four weeks from the date of receipt of the said representation, underwritten intimation to the petitioners.*

5. *The petition is disposed of.”*

2. *Mr. Arvind Nigam, learned senior counsel for the petitioner submits that the period of one year from the date of the affidavit expired on 11<sup>th</sup> November, 2015 and Air India has still not implemented the assurance given by them to this Court in WP(C) 5986/2014.*

3. *Mr. Lalit Bhasin, learned counsel for Air India present in Court on receipt of advance copy submits that there is no deliberate and wilful violation of the order dated 13<sup>th</sup> November, 2014. It is further submitted that Air India would implement the order dated 13<sup>th</sup> November, 2014 on or before 31<sup>st</sup> March, 2016. Let an undertaking to this effect be filed by Air India within a period of two weeks from today.*

4. *Mr. Arvind Nigam, learned senior counsel for the petitioner submits that in the event of Air India implementing the order dated 13<sup>th</sup> November, 2014 on or before 31<sup>st</sup> March, 2016, the petitioner would not press this petition. Learned senior counsel however submits that the matter be kept pending for accepting the undertaking to be given by Air India and the petition may thereafter be disposed of with liberty to the petitioner to revive the same in the event of any further default by Air India.*



5. *List for considering the undertaking to be filed by Air India on 2<sup>nd</sup> February, 2016”.*

Pursuant to the aforesaid order as well as the order of 18.4.2018, an undertaking was filed on behalf of the Air India Ltd. by the same officer i.e. General Manager, Industrial Relations (IR), who had filed the affidavit dated 12.11.2014. The relevant part of the said undertaking, *inter alia*, states that:-

*“2. I say that I am filing this undertaking in form of an Affidavit in compliance of the order dated 13.01.2016 passed by this Hon'ble Court. I hereby undertake that the order dated 13.11.2014 would be implemented by Air India Ltd on or before the 31.03.2016.”*

On the basis of the said undertaking, the contempt petition was disposed-off on 02.02.2016. The Court recorded, *inter alia*, as under.

*“1. Ms. Aruna Gopalakrishnan, General Manager (IR), Air India Limited has filed an undertaking dated 27<sup>th</sup> January, 2016 to implement the order dated 13<sup>th</sup> November, 2014 on or before 31<sup>st</sup> March, 2016. The undertaking is accepted.*

*2. This petition is disposed of in terms of the aforesaid undertaking with liberty to the petitioner to revive this petition in the event of any further default by Air India Limited.*

*3. Copy of this order be given dasti to counsels for the parties under signature of Court Master”.*

It is worthwhile to refer to the order of 18.04.2018, when this Court



had recorded as under:-

*“Notice has not been issued in the contempt petition.*

*Notice, Mr. Lalit Bhasin, Adv. accepts notice for the respondent Nos.1 and 2. It is noted that Ms. Anjana Gosain, Adv. has been representing the respondent No.3. Let Court notice be issued to Ms. Anjana Gosain, returnable on May 08, 2018.*

*Mr. Lalit Bhasin states that an affidavit has been filed in the Registry on April 18, 2018. The same is not on record. Let the same be brought on record before the next date of hearing.*

*During the course of hearing Mr. Lalit Bhasin submitted, as per his instructions the respondents are working out a proposal to implement the revision of the pay scales w.e.f. January 01, 2012.*

*According to Mr.Sudhanshu Batra, learned Senior Counsel appearing for the petitioners, the same would be beneficial to the petitioners than the one undertaken by the respondents before the Court.*

*Mr. Lalit Bhasin states that to have clarity on instructions, he shall ensure that the deponent of the affidavit is present in the Court on the next date of hearing.*

*At his request, re-notify on May 08, 2018”.*

What emanates from the aforesaid proceedings is that the petitioners’ substantive writ was disposed-off on an undertaking given by the respondent-Air India Ltd., to the effect that the recommendations of the Justice Dharmadhikari Committee would be applicable to the petitioners with effect from 12.07.2012. This undertaking to the Court also formed the basis of the order dated 13.11.2014. The same position was reiterated, in the



contempt proceedings thrice over, as well as in these proceedings. The commitment of Air India Ltd. to give benefit of the aforesaid Committee recommendations w.e.f. 01.07.2012 is unequivocal and so are the orders of this Court.

The respondents state that now their hands are tied, in so far as the Dharmadhikari Report were made applicable by the Government of India only with effect from 01.01.2016 and that they are dependent entirely upon the largesse /financial assistance received from the Govt. of India; that Air India Ltd. is in an unhealthy financial state, hence, it is being helped by the Govt. of India, to tide over its financial difficulties and proposals for revised pay and other aspects of benefits of Air India employees have to be approved by the Ministry of Civil Aviation.

Be that as it may, insofar as the respondent Air India Ltd. has given categorical undertakings to this Court that the petitioners before the Court, who incidentally are a few in numbers, would get the benefit of the Justice Dharmadhikari Committee Report recommendations with effect from 01.07.2012, the benefits/monies due should be paid to them from 01.07.2012. Accordingly, respondent No.1 is directed to pay the said monies to the petitioners within six weeks from today. Compliance affidavit be filed in ten weeks.

The court is informed that the financial outlay apropos the 19 petitioners in this contempt petition is not likely to exceed Rs.5 crores. The said petitioners have pursued their claim through the writ petition and this contempt petition; they are entitled to the benefit of the orders passed in the petitions.



List for compliance and further directions on 09.07.2019.

**APRIL 10, 2019**

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**NAJMI WAZIRI, J.**