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

+ **W.P.(C) 8809/2018 & CM APPL. 3891/2022**

AIR INDIA LTD.

..... Petitioner

Through: Ms. Padma Priya & Ms. Shreya Sethi,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. P.S. Singh, Advocate for R-1 (M-
9810282890)

Mr. Rajesh Mahindru, Adv. for R-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **21.01.2022**

1. This hearing has been done through video conferencing.

CM APPL. 3891/2022(for direction) in W.P.(C) 8809/2018

2. This is an application filed on behalf of the Petitioner-Air India Ltd. seeking issuance of directions from this Court to the Dy. Chief Labour Commissioner (Central) to not to credit the amount of Rs.1,22,06,000/- debited on 14th January 2022 from the bank account of the Petitioner in favour of Respondent No.2/Workman (*hereinafter "Workman"*) and the same be returned to the Petitioner with permission to the Petitioner to deposit the said amount before the Registrar General of this Court.

3. The background of the present case is that the Petitioner-Air India Ltd., had challenged the impugned award dated 13th December, 2017 in **ID No. 275/2011** titled **Smt. Kulbir Bedi v. The General Manager (IR), Indian Airlines** passed in favour of the Respondent No.2- Ms. Kulbir Bedi who was working as an Air Hostess at Air India Ltd. By the impugned award, it was held by the Central Government Industrial Tribunal (*hereinafter as 'CGIT'*)



that the termination of the Respondent No.2 was totally illegal and unjustified. She was granted full backwages till the date of her retirement i.e., 31st August, 2002 and all consequential benefits which she would have been entitled to.

4. Vide order dated 24th August, 2018, the Court had issued notice in the matter. The Court while considering the stay application, stayed the impugned award vide order dated 6th September, 2019 subject to the Petitioner depositing the entire awarded amount with the Registrar General of this Court within four weeks. Unfortunately, as events which transpired thereafter, there was a complete failure on part of the Petitioner in depositing the aforesaid amount. Even as of the last date of hearing, 10th January, 2022 there was a dispute as to the calculation of the backwages, etc., which were to be deposited. An application was moved by the Petitioner seeking to place on record a demand draft of Rs.32,45,677/-. It was noticed by this Court that the application was bereft of material particulars. The application was briefly heard and was adjourned.

5. In the meantime, the Workman pursued recovery proceedings in terms of Section 33C(1), Industrial Disputes Act, 1947. In the said recovery proceedings, a recovery certificate is stated to have been issued and a warrant of attachment has also been issued by the Assistant Collector Gr.-1/SDM Sub-Division (Chanakya Puri) District, New Delhi. However, it is now submitted in this application by the Petitioner that the cheque for the amount of Rs. 1,22,06,000/- has been prepared in favour of Workman. The prayer of Air India Ltd., therefore, in light of the aforesaid is that the amount of Rs.1,22,06,000/-, debited from the account of the petitioner on 14th January 2022 for onward transfer to the Regional Labour Commissioner



(Central), O/o the Dy. Chief Labour Commissioner (Central), instead of being remitted to the Workman be deposited with the Registrar General of this Court. The apprehension expressed by Ms. Padma Priya is that there would be no way of recovering the same if the writ petition is decided in favour of the Petitioner. Mr. Mahindru however opposes and submits that the workman has fought a long battle to reach this position. The Petitioner is using one tactic or another to delay the matter.

6. The Court has considered the application of the Petitioner. Firstly, there can be no doubt that the Petitioner has unduly delayed the deposit of the amount in terms of the order dated 6th September 2019 passed by this Court granting stay of the impugned award. The delay has been from 2019 and more than 3 years have passed since the said amount was to be deposited. The mere dispute in calculation of back wages, etc., could not have led to such a delay inasmuch as the Petitioner had a duty to ensure that the calculations are properly done and the amount was deposited within the time stipulated. The Workman has been forced to, in fact, pursue recovery proceedings in view of the defaults made by the Petitioner and has also incurred costs in the process. It is under such circumstances owing to the recovery proceedings that the attachment order has been issued and the bank account of the Air India Ltd. has been debited of the amount in terms of the recovery certificate.

7. However, the payment of the entire amount to the Workman at this stage, as per the recovery certificate, to the Workman, would in effect render the present writ petition itself infructuous as it challenges the impugned award under which the said recovery is initiated. Accordingly, in the facts and circumstances of the present case, it is directed that the cheque which is



prepared in favour of the Respondent No.2 shall not be encashed by the Workman. The entire amount of Rs.1,22,06,000/-, shall be deposited by the Petitioner, with the Registrar General of this Court by 28th January, 2022 failing which, the interim order granted shall be automatically vacated without any further orders of this Court. On the said amount being deposited with the Registrar General, the interim order already granted shall continue during the pendency of the present writ petition.

8. Mr. Rajesh Mahindru, Id. Counsel for the Workman submits that the cheque pursuant to the Recovery Proceedings has been dispatched to the Workman and is in her name. It is directed that the Workman shall not encash the said cheque and the same shall be returned to the Id. Counsel for the Petitioner upon the Petitioner's Counsel furnishing the proof of deposit of the amount of Rs. 1,22,06,000/- with the worthy Registrar General of this Court.

9. In view of the fact that Workman had to pursue recovery proceedings and also incurred heavy legal costs in defending the present writ petition, and also considering the fact that the litigation expenses have also been granted earlier vide order dated 6th May 2019, the Petitioner is directed to pay a sum of Rs.1,50,000/- to the Workman as costs. The same shall be paid within four weeks.

10. The amount of Rs.1,22,06,000/- being deposited with the Registrar General shall be without prejudice to the rights and contentions of the Petitioner as also subject to the calculations being filed which shall be perused by the Court at the time of final hearing. The said amount shall be kept in an interest bearing FDR on auto renewal mode.

11. With these observations all the pending applications are disposed of.



12. The matter shall be taken up for final hearing on 2nd May, 2022. No adjournment shall be granted on the next date.

PRATHIBA M. SINGH, J.

JANUARY 21, 2022

dj/sk