

A

SHIVA ANAND

v.

INDIAN AIRLINES LTD. & ORS.

OCTOBER 12, 2007

B

[S.B. SINHA AND HARJIT SINGH BEDI, JJ.]

C

*Service Law—Termination—Disciplinary proceedings—Employee producing fake document for obtaining visa—Dismissal—Single Judge of High Court quashed the order, directing his reinstatement—Division Bench of High Court upholding the order of dismissal—On appeal, held: In the facts of the case employee has been rightly punished—However, punishment of dismissal altered to termination in view of his past good career record and high qualification.*

D

E

**Appellant, an employee of respondent Airlines was charged for having produced a fake certificate from the respondent, for the purpose of getting a visa. Enquiry Officer gave his report recommending his dismissal from service. He was punished accordingly by the authority. After some litigation between the parties, appellant filed a departmental appeal against the order of dismissal which was rejected. Appellant challenged both the orders in Writ Petition. Single Judge of High Court quashed the order of dismissal and directed his reinstatement. In writ appeal, Division Bench of High Court upheld the order of dismissal. Hence the present appeal.**

F

**Disposing of the appeal, the Court**

G

**HELD: 1. The order of the Division Bench cannot be interfered with in the light of the issues that have been raised and the conduct of the appellant in attempting to produce a fake document along with his application for a visa. [Para 4] [366-F]**

H

**2. The proposal of the appellant in the alternative was that in view**

[HARJIT SINGH BEDI, J.]

of his uniformly good career for 27 years with the Indian Airlines and his expertise as a highly qualified master technician in Aircraft Engineering the order of dismissal be modified to one of termination of service so as to enable him to seek employment in some other organization. The proposal was accepted by the respondent. Accordingly the penalty of dismissal modified to termination of service. It was further directed that the sum of Rs. 1,00,000/- which has been deposited in this Court shall be paid to the appellant to defray his expenses.

[Para 5] [366-G, H; 367-A, B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4842 of 2007.

From the Judgment and final Order dated 10.04.2007 of the High Court of Calcutta in A.P.O. No. 240 of 2003 in A.P.O.T. No. 632 of 2002 in G.A. No. 3469 of 2002 in W.P. No. 663 of 2000.

K.V. Vishwanathan, Suman Jyoti Khaitan and P.S. Sudheer for the Appellant.

L.N. Rao, Lalit Bhasin, Nina Gupta, Akanksha, Neha Sharma, Swigin and Bina Gupta for the Respondents.

The Judgment of the Court was delivered by

**HARJIT SINGH BEDI, J.** 1. Leave granted.

2. This appeal by special leave is directed against the judgment of the Division Bench of the Calcutta High Court whereby it has set aside the Judgment and order of the learned Single Judge dated 2nd August 2002 which in turn had quashed the order of dismissal from service made against the appellant herein and directing his reinstatement with 50% back wages. In the light of what has been stated by the learned counsel for the parties, we find that a detailed discussion on the matters in controversy would perhaps not be necessary. The bare facts accordingly are being referred to.

3. Shiva Anand, appellant herein, was an employee of the Indian Airlines and posted at Calcutta Airport. In August 1998 he applied for a

A concessional air ticket for a visit to Delhi and then proceeded to Delhi on 22nd August 1998. On the 28th August 1998 he visited the Australian High Commission in New Delhi and applied for a visa for entry into Australia. On September 2, 1998 he again visited the Australian High Commission and submitted an employer's certificate allegedly signed by  
B Shri S.K. Basu, Senior Chief Manager of the Indian Airlines certifying that he had been granted privilege leave from September 1, 1998 to October 30, 1998. It appears that in order to verify the correctness of the certificate the Australian High Commission got in touch with the Indian Airlines on which it was revealed that no such certificate had been issued  
C by Shri S.K. Basu. Disciplinary proceedings were accordingly initiated against the appellant for having produced a fake certificate in the name of Shri S.K. Basu and a charge-sheet dated 28th October 1998 was issued to him. After a detailed enquiry which the appellant repeatedly tried  
D to obstruct, the enquiry officer tendered his report recommending that he be dismissed from service on which the punishing authority passed a final order to that effect. After some litigation between the parties which even brought the parties to this Court, the appellant filed a departmental appeal against the order of dismissal from service.

E The appeal too was rejected by order dated 18th January 2001. Both the orders were impugned before the learned Single Judge and were quashed leading to the filing of the appeal before the Division Bench which reversed the same and upheld the order of dismissal. It is in these  
F circumstances that the present appeal has been filed by Shiva Anand.

4. We have heard the learned counsel for the parties at length. We are not inclined to interfere with the order of the Division Bench in the light of the issues that have been raised and the conduct of the appellant in attempting to produce a fake document along with his application for a  
G visa.

5. Faced with this situation, the learned counsel for the appellant submitted in the alternative that but for one aberration i.e. the present one, the appellant had a uniformly good career for 27 years with the Indian  
H Airlines and his expertise as a highly qualified master technician in Aircraft Engineering had been fully recognized and as the order of dismissal had

[HARJIT SINGH BEDI, J.]

foreclosed all chances of future employment it was perhaps appropriate A  
that the order of dismissal be modified to one of termination of service  
so as to enable him to seek employment in some other organization. Mr.  
Rao, the learned senior counsel for the respondent, Indian Airlines had  
sought time to take instructions, and has thereafter informed us that the  
Indian Airlines were inclined to accept the proposal so as to make the B  
appellant eligible for future employment. We accordingly modify the penalty  
of dismissal to termination of service. We further direct that the sum of  
Rs. 1,00,000/- which has been deposited in this Court shall be paid to  
the appellant to defray his expenses.

6. The appeal is disposed of in the above terms. C

K.K.T.

Appeal disposed of.