



**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No. 924/2019**

New Delhi, this the 04<sup>th</sup> day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**  
**Hon'ble Mr. Mohd. Jamshed, Member (A)**

Jagvir Singh Chauhan,  
S/o Sh. Mahabir Singh Chauhan,  
Senior Flight Operational Inspector, Age 52 years,  
Group 'A',  
R/o B-102, Jasper Hiranandani Estate,  
Patlipada, Thane (West),  
Maharashtra – 400607.

...Applicant

(By Advocate: Mr. Arpit Maheswari)

Versus

1. Directorate General of Civil Aviation,  
Through its Director General,  
Aurbindo Marg,  
Opp. Safdarjung Airport,  
New Delhi – 110003.
2. Deputy Director of Civil Aviation (Admin),  
Directorate General of Civil Aviation.  
Aurbindo Marg,  
Opp. Safdarjung Airport,  
New Delhi – 110003.
3. Joint Director General (FSD),  
Directorate General of Civil Aviation.  
Aurbindo Marg,  
Opp. Safdarjung Airport,  
New Delhi – 110003.
4. Joint Director General (Finance and  
Administration),  
Directorate General of Civil Aviation.  
Aurbindo Marg,  
Opp. Safdarjung Airport,

New Delhi – 110003.



5. Deputy Director (Vigilance),  
Directorate General of Civil Aviation.  
Aurbindo Marg,  
Opp. Safdarjung Airport,  
New Delhi – 110003.
6. Ministry of Civil Aviation,  
Through its Secretary,  
B-Block, Rajiv Gandhi Bhawan,  
New Delhi – 01.
7. Deputy Director General of Civil Aviation (WR),  
New Integrated Airport Authority Complex,  
Opp Parsiwada, Vile parle (East),  
Mumbai-99.
8. Deputy CFOI (Western Region),  
New Integrated Airport Authority Complex,  
Opp Parsiwada Vile Parle (East),  
Mumbai -99.

Respondents

(By Advocate: Mr. R. K. Jain )

### **ORDER (ORAL)**

**Justice L. Narasimha Reddy, Chairman:-**

The applicant was engaged as a Senior Flight Operations Inspector (SFOI) (Helicopter) by the Directorate General of Civil Aviation on contractual basis, for a period of 03 years through order dated 17.09.2014. A show cause notice was issued on 01.08.2017, requiring the applicant to explain the two allegations levelled against him. The first was about his conducting Hill Flying recency check for Capt. Ghuliana of Kestral Aviation on Augusta 119



Koala Helicopter (VT-CLN) on 23.04.2017. The second was about his conducting a surveillance test in Bhubaneswar in respect of Armid Aviation on 01.09.2016. The applicant submitted his reply on 09.08.2017. Another show cause notice was issued on 30.10.2017 with almost same allegations. The reply was submitted on 02.11.2017 and on taking the same into account, the respondents passed an order dated 12.03.2019 terminating the contract of the applicant with immediate effect. The same is challenged in this OA.

2. The applicant contends that the allegations levelled against him are without any basis and he performed his duties strictly in accordance with norms and code prevailing in the respondents organization. It is stated that though detailed explanations were submitted on two occasions, none of them was taken into account and the impugned order was passed by attaching stigma on him.

3. Respondents filed a counter affidavit opposing the OA. It is stated that the applicant



was assigned very sensitive and highly technical task of certifying the fitness of helicopters and pilots and on two occasions he was found violating the norms. According to them, the applicant deviated from prescribed procedure and that would have its own impact upon the further activities.

4. We heard Mr. Arpit Maheshwari, learned counsel for the applicant and Mr. R. K. Jain, learned counsel for the respondents.

5. The engagement of the applicant as a SFOI (Helicopter) by respondents was on contractual basis for a period of three years. In the show cause notice dated 01.08.2017, the following observations were made. It read as under:-

“Whereas Capt. J.S. Chauhan, SFOI, posted at Office of Dy. Director General of Civil Aviation, Mumbai, have conducted following acts:

- a) Capt. J.S. Chauhan SFOI, conducted Hill Flying recency under CAR provisions for Capt. Ghuliani of Kestral Aviation on the Augusta 19 Koala VT-CLN on 23<sup>rd</sup> April 2017, without authorization of DGCA.
- b) Capt J.S. Chauhan SFOI, had earlier moved to Bhubaneswar to conduct surveillance in respect of Armid Aviation on 1<sup>st</sup> September, 2016 without specific tour approval of DGCA.

Whereas after due consideration the above conducts are considered as instances of misconduct on his part and deliberate violation of Code of Conduct.



Therefore, Capt. J.S. Chauhan, SFOI, O/o DDG WR is hereby given an opportunity to submit written explanation and justify as to why disciplinary action should not be taken against him for the above mentioned misconducts. The explanation should reach the undersigned not later than seven (07) days of receipt of the letter.

If Capt. J.S. Chauhan, SFOI fails to reply within the stipulated time it will be assumed that he has nothing to say in his defence and suitable orders will be liable to be passed against him ex parte”

6. The applicant submitted his explanation denying the allegations. In the subsequent show cause notice dated 30.10.2017, the earlier show cause notice as well as the explanation submitted by the applicant were referred to and the following was mentioned:-

“The following cases have also come to notice of this office that:-

1. Capt. Chauhan was not meeting the requirement of para 11 of CAR/H/II DGCA approved TRE/TRI/Check Pilots shall be role qualified and current before undertaking training/tests/checks in special roles and therefore his act of undertaking the hill flying recency check for Capt. Ghuliani of Kestral Aviation on Augusta II9 Kolala Helicopter (VT-CLN) on 23<sup>rd</sup> April, 2017 was in violation of the said provision of CAR.

2. While recency checks both the crew seats were occupied by the company pilots and Capt. Chauhan was occupying the passenger seat in the passenger cabin. However, as per the extant procedure such release checks were required to be conducted by Examiner/FOI from Co-pilot seat so as he can properly communicate and observe the panel and performance of the pilot under check.



3. As per para 3 of Rule 4I (A) and para 4 of CAR7/I/IV conducting of skill test is the privilege of an Examiner. Being a TRI, the role of Capt. Ghulinai was limited to impart the training to the pilots and not be conduct to skill tests. The examiner authorization, which is a licensing issue is required to be granted by the Director General of Civil Aviation/Joint Director General of Civil Aviation. Capt. Ghuliani, approached Office of DDG, Mumbai to seek authorization for conducting the skill test of the two pilots for the endorsement. However, Capt. Chauhan overruling the extant procedure and exceeding his authority had allowed to him conduct the checks and was also present on the board for these checks without any authorization of the competent authority.

4. The aforesaid lapses are treated as instance of misconduct on his part and deliberate violation of extant provisions and CAR Rules. Capt. J.S. Chauhan, Senior Flight Operations Inspector (Helicopter) is hereby directed to submit his explanation alongwith the documentary evidence as to why an action should not be taken against him, within three days of receipt of this communication.

5. This issue with the approval of Director General of Civil Aviation.”

7. The applicant responded to the same. Ultimately, the impugned order was passed, terminating the contract of the applicant. Once the engagement of the applicant was on contractual basis, it is not necessary that a regular enquiry be conducted. In all fairness to the applicant, the respondents issued a show cause notice and after receiving the reply they



issued another show cause notice. The allegations made against the applicant relate to highly sensitive and technical aspects. Any certification made by the applicant as SFOI (Helicopter) would become instrumental in certifying the flying worthiness of a helicopter and ability of a pilot. Even a small lapse in that behalf would be fatal.

8. The first allegation against the applicant was that he occupied passenger seat while conducting Hill flying recency check of a helicopter. It was also alleged that the check was conducted without authorization by the competent authority. Though, the learned counsel for the applicant made an effort to convince us that test of that nature can be conducted by the SFOI by seating in the passenger seat, we cannot simply ignore the version presented in the official proceedings.

9. In the second charge, it was mentioned that the applicant moved to Bhubaneswar to conduct surveillance in respect of Armid Aviation without approval of competent authority and he went on



self finance. Though the learned counsel for the applicant has drawn our attention to certain proceedings through which the authorization is said to have been granted, we find certain conditionalities therein. The gravity appears to be about the applicant proceeding to Bhubaneswar with his own ticket. When the task assigned to him is official in nature, he was expected to follow the prescribed procedure and wait for the necessary arrangement to be made.

10. Whatever be the nature of enquiry conducted or the gravity of the allegations made against the applicant, the fact remains that his appointment was purely contractual in nature and that has come to an end on 12.03.2019. Though, the learned counsel for the applicant stated that even while the enquiry was pending, the applicant was assigned some sensitive jobs, we are not impressed by that. Every work that was required to be performed by the applicant is sensitive and highly technical and he cannot be made to sit idle while the proceedings are pending.



11. We do not find any merit in the OA and the same is, accordingly, dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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