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

Judgment Reserved on: 26.11.2025
Judgment Pronounced on: 11.12.2025

\+ LPA 142/2013

KING AIRWAYS .....Appellant

Through: Mr. Amit Rawal, Mr. Pradeep Bakshi, Senior Advocates with Ms. Rishika, Advocate.

versus

CAPTAIN PRITAM SINGH .....Respondent

Through: Mr. Shohit Chaudhry, Advocate.

\+ LPA 141/2013

KING AIRWAYS .....Appellant

Through: Mr. Amit Rawal, Mr. Pradeep Bakshi, Senior Advocates with Ms. Rishika, Advocate.

versus

MANJIT SINGH .....Respondent

Through: Mr. Shohit Chaudhry, Advocate.

\+ LPA 143/2013

KING AIRWAYS .....Appellant

Through: Mr. Amit Rawal, Mr. Pradeep Bakshi, Senior Advocates with Ms. Rishika, Advocate.

versus

N.D. KATHURIA .....Respondent

Through: Mr. Shohit Chaudhry, Advocate.

+ LPA 618/2015, CM APPL. 19114/2015, CM APPL. 30801/2018 and CM APPL. 30806/2018

CAPTAIN PRITAM SINGH .....Appellant
Through: Mr. Shohit Chaudhry, Advocate.

versus

M/S KING AIRWAYS .....Respondent
Through: Mr. Amit Rawal, Mr. Pradeep Bakshi, Senior Advocates with Ms. Rishika, Advocate.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

JUDGMENT

HARISH VAIDYANATHAN SHANKAR, J.

1. By this judgment, we propose to dispose of all the **Letters Patent Appeals**[1], which, with the consent of the parties, were heard together and are therefore being decided by this common judgment.

LPA 141/2013, LPA142/2013 & LPA 143/2013

2. These three LPAs instituted under Clause 10 of the Letters Patent, assail the common Judgment dated 12.02.2013 rendered by the learned Single Judge of this Court in Writ Petitions (Civil) Nos. 2666/2010, 664/2010 and 3389/2010.

3. By way of the Impugned Judgment dated 12.02.2013, the learned Single Judge upheld the Orders dated 14.09.2009 passed by

[1] LPAs

the **Presiding Officer, Industrial Tribunal-cum-Labour Court No. 1, Karkardooma Courts, New Delhi**[2], allowing the claims of the Respondent towards unpaid salary, incentives for extra flying hours and their pay expenses which had been withheld by the Management.

LPA 618/2015

4. This LPA, filed under Clause 10 of the Letters Patent, challenges the Judgment dated 02.07.2015 passed by the learned Single Judge in Writ Petition (Civil) No. 1490/2012. By the Impugned Judgment, the learned Single Judge allowed the writ petition thereby set aside the learned Tribunal's award dated 19.01.2012, and remanded the matter to the Tribunal for a fresh award after taking evidence.

5. For the sake of convenience and clarity, and to avoid repeated references to differently arrayed parties in this common judgment, the Appellant in LPA 141/2013, LPA 142/2013, and LPA 143/2013, King Airways, shall be referred to as "***King Airways/Appellant***". The Respondents in those LPAs, along with the Appellant in LPA 618/2015, shall be collectively referred to as the "***Respondent/Workmen***".

CONTENTIONS OF THE APPELLANT:

6. Although various grounds have been urged by the Learned Senior Counsel for the Appellant in its Appeals, only the following contentions were pressed at the time of arguments. Accordingly, the scope of this judgment is confined solely to the submissions actually advanced and to no others. The contentions raised by the learned Senior Counsel for the Appellant-King Airways are as follows: -

[2] Tribunal

I. At the outset, learned Senior Counsel for the Appellant would place considerable reliance on the pleadings and the judgment impugned in LPA 618/2015, contending that the learned Single Judge, in those proceedings, had taken the view that, in the absence of any substantive evidence led before the Tribunal on the question of whether the Respondent-Pilot (Captain) was a "workman", the matter warranted remand to the Tribunal for adjudication afresh.

II. It would be submitted that this reasoning squarely applies to the other LPAs as well, and in which, it is contended, the Impugned Judgment was rendered without any meaningful evidence having been led by either side before the Tribunal to support the conclusion that the Respondent satisfied the statutory tests under Section 2(s) of the **Industrial Disputes Act, 1947**[3]. This aspect, it would be urged, goes to the root of the matter and shall be adverted to at a later stage in this judgment.

III. Learned Senior Counsel would contend that the Respondents do not fall within the definition of "workman" under Section 2(s) of the ID Act. It would be submitted that the learned Single Judge, in Order dated 12.02.2013, erred in treating the Respondent as workman without adequately examining the statutory exclusions, particularly Section 2(s)(iv), which carves out from the definition of "workman", an exclusion in respect of persons employed in a supervisory capacity and drawing wages in excess of the statutory threshold. It would be urged that this material aspect was neither considered nor addressed by the learned Single Judge, thereby vitiating the Judgment.

[3] ID Act

IV. The third limb of challenge advanced by learned Senior Counsel pertains to the directions regarding back wages. It would then be submitted that the award of back wages is contrary to the principles laid down by the Hon'ble Supreme Court in ***Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya***[4]**,** which underscore that grant of back wages is not automatic and must be founded on evidence demonstrating unjustified termination and lack of alternative gainful employment. According to the Appellant, the learned Single Judge mechanically affirmed the Tribunal's grant of back wages without adhering to the jurisprudential parameters mandated by the Hon'ble Supreme Court.

V. To support his argument on the non-applicability of the definition of "workman", learned Senior Counsel would refer to the Appointment Letter dated 13.04.1995, to canvass that the Respondent was appointed as a Senior Commander at a salary of Rs. 1,00,000/- per month. It is submitted that, by virtue of drawing wages substantially above the statutory ceiling, the Respondent stand squarely excluded from the definition of "workman" under Section 2(s) of the ID Act.

VI. The Appellant would further rely on the communication dated 27.02.1996 to submit that the Respondent functioned not merely as a pilot but also as an Examiner, performing duties of an inherently supervisory and evaluative character. It would be contended that, in terms of Section 2(s)(iv)**,** a person employed in a supervisory capacity and drawing wages above the statutory limit is expressly excluded from the ambit of

[4] (2013) 10 SCC 324

"workman." Therefore, and on this ground too, the Respondent cannot claim the protection of the ID Act.

VII. To further buttress the contention that the Respondent discharged supervisory and managerial functions, learned Senior Counsel would draw attention to the **Operations Manual of U.P. Airways**[5], particularly Sections 4.4 and 4.5, detailing the functions of the **Pilot-in-Command/Captain**[6].

VIII. It would then be submitted that these provisions, read with Rule 141 of the **Aircraft Rules, 1937**[7], unequivocally establish that the PIC is entrusted with overall supervision of crew members, operational oversight, and command responsibilities. Thereby, it would be urged that these duties, by their very nature, elevate the role of the PIC beyond that of a workman performing technical or manual tasks, attracting the exclusion under Section 2(s) of the ID Act.

CONTENTIONS OF THE RESPONDENT:

7. ***Per contra***, learned counsel for the Respondent would submit that the learned Single Judge, in the judgment impugned in LPA 141/2013, LPA 142/2013, and LPA 143/2013, has duly examined the issue as to whether the Respondent is a workman and would contend that the reasoning and conclusion arrived at suffers from no infirmity.

8. In support thereof, he would refer to the Aircraft Rules, and in particular to Rule 3(42), which defines a PIC, and Rule 3(14), which defines a co-pilot, to demonstrate that these statutory definitions are aimed at ensuring the safe operation of aircraft and not at conferring

[5] Operation Manual
[6] PIC
[7] Aircraft Rules

supervisory authority in the industrial or administrative sense. Relevant rules are reproduced hereinbelow:

> "**(42)** "**Pilot-in Command**" in respect of a pilot,
> (i) engaged in commercial operations means the pilot designated by the operator as being in command and charged with the safe conduct of a flight; and
> (ii) engaged in general aviation or helicopter operations means the pilot designated by the operator or owner as being in command and charged with the safe conduct of a flight;
> **(14)** "**Co-pilot**" means a licensed pilot serving in any piloting capacity other than as pilot-in-command but excluding a pilot who is on board the aircraft for the sole purpose of receiving flight instruction."

9. He would thereafter refer to Rule 141 to contend that in the present case, the Respondent is not performing supervisory duties. He would urge that although Rule 141 speaks of the PIC supervising or directing other crew members for the proper discharge of duties and flight operations, such supervision is merely incidental to ensuring the safe conduct of the flight, is not the predominant function of the Respondent and is not supervisory in the sense contemplated under the exception carved out in Section 2(s) of the ID Act. Rule 141 is reproduced hereinbelow:

> "**141. Duties of Pilot-in-Command**- (1) Subject to the provisions of clause (b) of sub-rule (2) of rule 140B, the operator shall designate for each flight one pilot as Pilot-in-command, who shall supervise and direct the other members of the crew in the proper discharge of their duties in the flight operations.
>
> (2) In addition to being responsible for the operation and safety of the aircraft during flight time, the Pilot-in-command shall be responsible for the safety of the passengers and cargo carried and for the maintenance of flight discipline and safety of the members of the crew.
>
> (3) The Pilot-in-command shall have final authority as to the disposition of the aircraft while he is in command."

10. Learned counsel for the Respondent would further contend that the Operations Manual, particularly the organizational chart, clearly demonstrates that the person exercising actual supervisory and administrative control over the crew was the "Operations Manager" and not the pilots. He would refer to the duties and responsibilities of the Operations Manager as set out therein to submit that the Operations Manager was the immediate superior of both the operational staff and the crew.

11. Learned counsel for the Respondent would additionally contend that the organizational chart unequivocally shows that the crew and operational staff reported to the Operations Manager. He would argue that the test of whether an employee qualifies as a workman under Section 2(s) must be determined based on the predominant nature of duties performed. In the present case, he would contend that the predominant job of a pilot, as per the Operations Manual and the definition of PIC, was to fly the aircraft, and not to supervise the crew, who not only performed entirely different functions but also operated in a different organizational vertical.

12. Learned counsel for the Respondent would further submit that the definition of "workman" under Section 2(s) must be construed in a popular sense and not solely through statutory or dictionary meanings. In support, he would rely upon the Constitution Bench judgment of the Hon'ble Supreme Court in ***Bangalore Water Supply & Sewerage Board v. A. Rajappa***[8], particularly paragraph 18 and 26, which reads as under:

> "**18.** The penumbral area arrives as we move on to the other essentials needed to make an organized, systematic activity, oriented on productive collaboration between employer and

[8] 1978 SCC OnLine 65

employee, an industry as defined in Section 2(j). Here we have to be cautious not to fall into the trap of definitional expansionism bordering on *reductio ad absurdum* nor to truncate the obvious amplitude of the provision to fit it into our mental mould of beliefs and prejudices of social philosophy conditioned by class interests. Subjective wish shall not be father to the forensic thought, if credibility with a pluralist community is a value to be cherished. "Courts do not substitute their social and economic beliefs for the judgment of legislative bodies". [See (Constitution of the United States of America) Corwin p. xxxi]. Even so, this legislation has something to do with social justice between the 'haves' and the 'have-not, and naive, fugitive and illogical cut-backs on the import of 'industry' may do injustice to the benignant enactment. Avoiding Scylla and Charybdis we proceed to decipher the fuller import of the definition. To sum up, the personality of the whole statute, be it remembered, has a welfare basis, it being a beneficial legislation which protects Labour, promotes their contentment and regulates situations of crisis and tension where production may be imperiled by untenable strikes and blackmail lock-outs. The mechanism of the Act is geared to conferment of regulated benefits to workmen and resolution, according to a sympathetic rule of law, of the conflicts, actual or potential, between managements and workmen. Its goal is amelioration of the conditions of workers, tempered by a practical sense of peaceful co-existence, to the benefit of both-not a neutral position but restraints on laissez faire and concern for the welfare of the weaker lot. Empathy with the statute is necessary to understand not merely its spirit, but also its sense. One of the vital concepts on which the whole statute is built, is 'industry' and when we approach the definition in Section 2(j), we must be informed by these values. This certainly does not mean that we should strain the language of the definition to import into it what we regard as desirable in an industrial legislation, for we are not legislating de novo but construing an existing Act. Crusading for a new type of legislation with dynamic ideas or humanist justice and industrial harmony cannot be under the umbrella of interpreting an old, imperfect enactment. Nevertheless, statutory diction speaks for today and tomorrow; words are semantic seeds to serve the future hour. Moreover, as earlier highlighted, it is legitimate to project the value-set of the Constitution, especially Part IV, in reading the meaning of even a pre-Constitution statute. The paramount law is paramount and Part IV sets out Directive Principles of State Policy which must guide the judiciary, like other instrumentalities, in interpreting all legislation. Statutory construction is not a petrified process and the old bottle may, to the extent language and realism permit be, filled with new wine. Of course, the bottle should not break or lose shape.

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26. A panoramic view of the statute and its jurisprudential bearings has been projected there and the essentials of an industry decocted. The definitions of employer [Sec. 2(g) L industry [Sec. 2(j)], industrial dispute [Sec. 2(k)] workman [Sec. 2(a) J, are a statutory dictionary, not popular parlance. It is plain that merely because the employer is a government department or a local body (and, a fortiori, a statutory board, society or like entity) the enterprise does not cease to be an 'industry'. Likewise, what the common man does not consider as 'industry' need not necessarily stand excluded from the statutory concept. (And vice versa) The latter is deliberately drawn wider, and in some respects narrower, as Chandrasekhara Aiyer, J., has emphatically expressed:

> "In the ordinary or non-technical sense, according to what is understood by the man in the street, industry or business means as undertaking where capital and labour co-operate with each other for the purpose of producing wealth in the shape of goods, machines, tools etc., and for making profits. The concept of industry in this ordinary sense applied even to agriculture, horticulture, pisciculture and so on and so forth. It is also clear that every aspect of activity in which the relationship of employer and employee exists or arises does not thereby become an industry as commonly understood. We hardly think in terms of an industry, when we have regard, for instance, to the rights and duties of master and servant, or of a Government and its secretariat, or the members of the medical profession working in a hospital. It would be regarded as absurd to think so; at any rate the layman unacquainted with advancing legal concepts of what is meant by industry would rule out such a connotation as impossible. There is nothing however to prevent a statute from giving the word "industry" and the words "industrial dispute" a wider and more comprehensive import in order to meet the requirements of rapid industrial progress and to bring about in the interests of industrial peace and economy, a fair and satisfactory adjustment of relations between employers and workmen in a variety of fields of activity. It is obvious that the limited concept of what an industry meant in early time & must now yield place to an enormously wider concept so as to take in various and varied forms of industry, so that dispute arising in connection with them might be settled quickly without much dislocation and disorganisation of the than a determination of the respective rights and liabilities according to strict legal procedure and principles. The conflicts between capital and labour have now to be determined more from the standpoint of status than of contract, Without such an approach, the numerous

> problems that now arise for "solution in the shape of industrial disputes cannot be tackled satisfactorily, and this is why every civilised government has thought of the machinery of conciliation officers, Boards and Tribunals for the effective settlement of disputes.""

13. He would thereafter rely on the judgment of the Hon'ble Supreme Court in ***H.R. Adyanthaya v. Sandoz (India) Ltd***.[9] to contend that a pilot is essentially a skilled/ technical worker and therefore squarely falls within the ambit of Section 2(s) and not within its exceptions thereof. He would further contend that whether a person is a workman is a fact-based determination dependent on the actual duties performed, and that the duties discharged by a pilot would not fall within the exceptions to Section 2(s). Relevant paragraph of the said Judgement is reproduced hereinbelow:

> "6. In the light of the above position of law emerging from the judicial decisions, the statutory provisions and the changes in them, we may now deal with the contentions advanced before us. It was contended by Shri Sharma, appearing for the workmen that the definition of workman under the ID Act includes all employees except those covered by the four exceptions to the said definition. His second contention was that in any case, the medical representatives perform duties of skilled and technical nature and, therefore, they are workmen within the meaning of the said definition. We are afraid that both these contentions are untenable in the light of the position of law discussed above. The first contention was expressly negatived by two three-judge Benches in May & Baker and Burmah Shell cases (supra) as has been pointed out in detail above. As regards the second contention, it really consists of two sub-contentions, viz., that the medical representatives are engaged in "skilled", and "technical" work. As regards the word "skilled", we are of the view that the connotation of the said word in the context in which it is used, will not include the work of a sales promotion employee such as the medical representative in the present case. That word has to be construed ejusdem generis and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said

[9] AIR 1994 SC 2608

definition. Hence the contention that the medical representatives were employed to do skilled work within the meaning of the said definition, has to be rejected. As regards the "technical" nature of their work, it has been expressly rejected by this Court in Burmah Shell case (supra). Hence that contention has also to be rejected.

Shri Naphade, the learned Counsel appearing for the petitioner in W.P. 5259 of 1980 contended that inasmuch as the SPE Act, as it was originally enacted made a distinction between sales promotion employees drawing wages not exceeding Rs. 750 per mensem (excluding commission) or Rs. 9000 per annum (including commission) and those drawing wages above the said amounts included only the first category of employees in the said definition, it was discriminatory as against those who fell in the second category and was violative of Article 14 of the Constitution. According to him, the classification made had no rational nexus with the object sought to be achieved by the enactment. We are afraid that this argument is not tenable. The service conditions and their protection are not fundamental rights. They are creatures either of statute or of the contract of employment. What service conditions would be available to particular employees, whether they are liable to be varied, and to what extent are matters governed either by the statute or the terms of the contract. The legislature cannot be mandated to prescribe and secure particular service conditions to the employees or to a particular set of employees. The service conditions and the extent of their protection as well as the set of employees in respect of which they may be prescribed and protected, are all matters to be left to the legislature. Hence when a legislation extends protective umbrella to the employees of a particular class, it cannot be faulted so long as the classification made is intelligible and has a rational nexus with the object sought to be achieved. In the present case, the classification made between two categories of the sales promotion employees, viz., those drawing wages upto a particular limit and those drawing wages above it, is fairly intelligible. The object of the legislation further appears to be to give protection of the service conditions to the weaker section of the employees belonging to the said category. The legislature at that particular time though that it was not either necessary to extend the said protection to all the employees belonging to the said category irrespective of their income or that at that stage the circumstances including the conditions and the nature of the employment and the sales business or operation did not warrant protection to the economically stronger section of the said employees, and that economically weaker among them alone needed the protection. Hence it cannot be said that the classification made of the said employees on the basis of their income had no rational nexus with the object sought to be achieved, viz., the protection of the weaker

> section of the said employees. The extension of the protective umbrella could not as a matter of right, therefore, be demanded by those who drew more wages. Even in the definition of the workman under the ID Act as well as under the ID Act as well as under the very SPE Act, the classification of those employed to do supervisory work has been made on the basis of their monthly income although the work done by the two sections of the workmen is the same, viz., supervisory and those drawing wages above the particular limit have been excluded from the said definition. According to us, it is permissible to classify workmen on the basis of their income although the work that they do is of the same nature. The protective umbrella need not cover all the workmen doing the particular type of work. It can extend to them in stages. At what stage which of the said section of the employees should come under the said umbrella is a matter which should be left to the legislature which is the best judge of the matter. We, therefore, do not see any merit in the contention."

14. Learned counsel for the Respondent would buttress his argument by referring to the judgment of this Court in ***Aeroflot Russian Airlines v. Rajinder Upadhayay & Anr.***[10] and on the judgment of the Hon'ble Supreme Court in ***S.K. Maini v. Carona Sahu Company Limited***[11] to contend that it is the true nature of the duties performed, and not the designation, which determines whether an employee is a workman. Relevant paragraph of ***S.K. Maini*** (*supra*) is reproduced hereinbelow:

> "**9.** After giving our careful consideration to the facts and circumstances of the case and the submissions made by the learned counsel for the parties, it appears to us that whether or not an employee is a workman under Section 2(s) of the Industrial Disputes Act is required to be determined with reference to his principal nature of duties and functions. Such question is required to be determined with reference to the facts and circumstances of the case and materials on record and it is not possible to lay down any strait-jacket formula which can decide the dispute as to the real nature of duties and functions being performed by an employee in all cases. When an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the

[10] 2014/DHC/3233
[11] 1994 SCC OnLine SC 132

> appropriate classification but in the complexity of industrial or commercial organisations quite a large number of employees are often required to do more than one kind of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it. In this connection, reference may be made to the decision of this Court in Burmah Shell Oil Storage and Distribution Co. of India Ltd. v. Burmah Shell Management Staff Assn. In All India Reserve Bank Employees Assn. v. Reserve Bank of India it has been held by this Court that the word 'supervise' and its derivatives are not words of precise import and must often be construed in the light of context, for unless controlled, they cover an easily simple oversight and direction as manual work coupled with the power of inspection and superintendence of the manual work of others. It has been rightly contended by both the learned counsel that the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. The determinative factor is the main duties of the employee concerned and not some works incidentally done. In other words, what is, in substance, the work which employee does or what in substance he is employed to do. Viewed from this angle, if the employee is mainly doing supervisory work but incidentally or for a fraction of time also does some manual or clerical work, the employee should be held to be doing supervisory works. Conversely, if the main work is of manual, clerical or of technical nature, the mere fact that some supervisory or other work is also done by the employee incidentally or only a small fraction of working time is devoted to some supervisory works, the employee will come within the purview of 'workman' as defined in Section 2(s) of the Industrial Disputes Act."

15. Learned counsel for the Respondent would finally rely on the judgment of the Division Bench of the Calcutta High Court in ***Indian Iron and Steel Co. Ltd. v. Ninth Industrial Tribunal & Ors***.[12], particularly paragraph 5, to contend that a pilot is a skilled worker and his principal employment is for the purpose of flying and that any additional job for example that of an examiner as is being contended in the present matter would have no bearing since that was a miniscule part of the functions that were carried out by the workman. Relevant

[12] 2005(3)C HN481

paragraph of the said Judgement is reproduced hereinbelow:

> "**5.** Admittedly, the workman was a pilot and he was asked to do some supervisory job. But no particulars have been produced before the learned Tribunal or before the learned Single Judge or before us to show that he was designated of job supervisory or managerial in nature. On the other hand the learned Tribunal had found that he used to do job in the Purchase Department in addition to the job of the pilot. Even if the workman performs some kind of supervisory job, even then the same cannot determine the character of the employment. It is the principal employment that would determine the characteristics. Admittedly, job of a pilot may be a skilled one but even then it is a job of a workman, which is his principal employment. Even if in addition he had performed some other job that would not be the determining factor. That too in the present case the learned Tribunal having found on fact that the workman had never discharged any work supervisory or managerial in nature. In the circumstances, as rightly pointed out by the learned Single Judge and held by the learned Tribunal, the employer had failed to prove that the workman was discharging any function in the nature of supervisory or managerial. In the circumstances, we do not find any reason on the basis of the materials on record, to pursue ourselves to hold that the conclusion arrived at by the learned Tribunal and the learned Single Judge to be perverse. Unless a finding of fact is held to be perverse, the Writ Court cannot interfere. In the circumstances, we do not find any merit on this point also."

16. He would thus contend that the judgment of the learned Single Judge in LPA No. 618/2025 does not reflect the correct legal position and fails to consider the earlier judgment impugned in LPA Nos. 141/2013, 142/2013 & 143/2013.

17. Learned Counsel would therefore pray that the LPA Nos. 141/2013, 142/2013, and 143/2013, be dismissed, and that LPA No. 618/2025 be allowed.

ANALYSIS:

18. We have heard the learned counsel for both parties and, with their valuable assistance, examined the entire record of the Appeals as well as the documents placed before us.

19. Before embarking on the exercise of adjudicating the rival contentions, we consider it appropriate to extract herein the relevant portions of the common Judgment impugned in LPA Nos. 141/2013, 142/2013 & 143/2013:

> "**8.** In D. Krishnan (*supra*) while dealing with a case wherein the status of the appellant was disputed from the beginning and the documents filed by the appellants itself showed that they were unsure of their own status, in the light of uncertain documents of the appellants therein and in the light of categorical statements time and again made in these documents relied by the appellants that they were prima facie managers, it was held that it was beyond jurisdiction of the Labour Court to determine their status in proceedings under Section 33-C(2) of the ID Act. In the present case though the management contested the status of the Pilots herein as workmen by way of the amendment applications, however the said contest was not pressed and was rejected vide order dated 25th January, 2002 which order has become final. This Court in Jetlite India Vs Captain R. Khosla held that an application under Section 33-C(2) ID Act could only be moved by a person who was a workman covered within the meaning and definition of Section 2(s) of the ID Act and therefore unless the person setting the machinery under ID Act in motion satisfies the Court that he is a workman as envisaged under Section 2(s) of the ID Act, no relief can be granted by the Court in his favour. A perusal of the impugned orders reveal that the learned Tribunai held that though the management has not pleaded in its written statement that Captain Manjit Singh/ Pritam Singh/ N.D. Kathuria were not a workmen ye to confer jurisdiction on this Tribunal burden lies on Captain Manjit Singh Pritam Singh/ N.D. Kathuria to establish that they were workmen within the meaning of Section 2(s) of ID Act. Though no plea was raised, however the contention of the management during arguments that the Pilots herein were performing operational work for the management was duly considered and on the basis of record available it was held that it could not be said that the Pilots herein were performing manual, managerial or supervisory duty and thus the Respondents fell within the definition of workmen under Section 2(s) of the ID Act. I find no illegality in the impugned orders to this extent.
>
> **9.** Learned counsel for the management has strenuously contended that the Pilots herein being Pilots in command/commanders they were overall in- charge of the flights which included supervision of the crew, the passengers and the management etc. However it may be noted that this is only an ancillary function and the main function of a Pilot in command is to fly the aero-plane. This issue came up for consideration before

the Division Bench of Bombay High Court in ***Cedri Dsilva*** *(supra)* wherein it was held:

> **11.** A pilots main duty is to drive an aircraft. He performs a highly skilled technical work. The difference between a driver of the aircraft and that of any other machine e.g. motor car or a steam engine is one of the nature of machine to be driven and one of the nature of the training required for the work. The main work of a chief pilot is to drive the aircraft. All those who have undertaken air journey know it well that he hardly spends any time in exercise of control over the passengers. His position cannot be compared to that of the captain of a ship. A ship contains a much larger number of passengers and greater quantity of cargo. The trip of a ship is much longer in duration than that of an aircraft. A ship has many departments which an aircraft has not, e.g. medical. According to the wage structure given in the Services Committee Report, a senior captain of an aircraft can rise upto Rs.1,550 per mensem. Besides this basic wage, he has many allowances also. He is a technical worker He does work with his own hands. The definition of workman given in Section 2(s) of the Industrial Disputes Act, 1947 brings within its ambit "any person employed in any industry to do any technical work for hire or reward: irrespective of the salary drawn by him. This is in contradiction with persons employed in a supervisory capacity who fall within the definition of a "workman" only when they draw wages not exceeding Rs. 500/-per mensem. I hold that all pilots, whether co-pilot or chief pilot, are "workmen" and they fall within the purview of this reference."

20. We find ourselves in agreement with the findings, as extracted hereinabove. We deem it apposite to observe that, given the nature of the work performed by a pilot and the practical realities of the job, whether as a PIC or as a Co-pilot, it is evident that although, in theory, they may be regarded as being in charge of the aircraft while in flight, and also referred to as the "Captain", in reality, the pilot's primary function is confined to flying the aircraft itself. To this effect, we take note of the terminology employed across different transportation modes, like shipping, wherein too, the term "Captain" is employed to

describe the person in charge of the vessel. However, we note that the role of a "Captain" in a Ship is vastly different from that of a "Captain" in an airplane.

21. Adverting now to the role of the crew in a flight; the members of the crew carry out their functions without any actual supervisory control being exercised by the pilot. While certain contingencies or issues arising mid-flight, may, as a matter of protocol, be referred to the pilot or pilot-in-charge, it has never been the Appellants' case that the pilot-in-charge assumes supervision and command over the routine activities of the crew or manages their day-to-day functions.

22. We are also persuaded to hold that the status or definition of a pilot-in-charge cannot be constricted within the rigid contours of statutory phraseology. Although Rule 141 may employ the expression "supervise", nothing has been placed on record to demonstrate that any actual supervisory authority is, in practice, exercised by the pilot-in-charge over the crew members.

23. We additionally note that, even during the course of arguments, no particulars or concrete material was adduced to substantiate the assertion that pilots were, in fact, discharging supervisory duties. In any event, the law is well settled insofar as it mandates that the words or definitions used in a particular statute cannot be extrapolated into another, especially when the said Statutes are contextually dissimilar. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in ***Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta***[13], which reads as follow:

> "**53.** ……..Words are after all, a vehicle for communicating ideas, thoughts and concepts. A one-size-fits-all analogy may not always hold good when we construe similar words in entirely distinct

[13] (2021) 7 SCC 209

settings. Justice G.P. Singh in his authoritative commentary on the interpretation of statutes, *Principles of Statutory Interpretation*, has noted that the same words used in different sections of the same statute or used at different places in the same clause or section can have different meanings [G.P. Singh, *Principles of Statutory Interpretation* (1st Edn., Lexis Nexis 2015)]. Therefore, it is necessary to bear in mind the context in which the phrases have been used. Justice G.P. Singh has stated in his commentary that [G.P. Singh, *Principles of Statutory Interpretation* (1st Edn., Lexis Nexis 2015)] :

> "When the question arises as to the meaning of a certain provision in a statute, it is not only legitimate but proper to read that provision in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute and the mischief that it was intended to remedy."
>
> ***
>
> **55.** The meaning and content attributed to statutory language in one enactment cannot in all circumstances be transplanted into a distinct, if not, alien soil. For, it is trite law that the words of a statute have to be construed in a manner which would give them a sensible meaning which accords with the overall scheme of the statute, the context in which the words are used and the purpose of the underlying provision."

24. We further bear in mind the authoritative pronouncement of the Hon'ble Supreme Court in ***Bangalore Water Supply*** *(supra)*, wherein it has been emphatically held that statutory definitions should not be construed in isolation, and that the real and practical duties performed by an employee must guide the determination of whether he falls within the ambit of "workman" under Section 2(s) of the ID Act.

25. We also believe that a pilot cannot, in any reasonable sense, be termed a manager; and even assuming *arguendo* that such is the contention of the Appellant, it has not been their case that the main or predominant function of the pilot-in-charge was managerial in nature. In any event, there is nothing on record to suggest that this was so.

26. The Appellant's argument has primarily centred on the fact that the Respondent was drawing a salary well in excess of ₹10,000/-, and

that, when read with the contention that the Respondent was performing supervisory functions, would bring them within the ambit of Exception (iv) to the definition of "workman" under Section 2(s). This aspect will be dealt with in the latter part of the Judgment.

27. We also concur with the submission of the learned counsel for the Respondent that, as reflected in the Operation Manual, the pilot is positioned as an entirely independent vertical, and does not, particularly during flight operations, have any personnel placed under him within the operational hierarchy.

28. Assuming *arguendo* that Rule 141 of the Aircraft Rules is to be invoked in the present case to contend that pilots perform a supervisory role *qua* the members of the crew and in relation to the proper discharge of duties during flight operations, such a contention is clearly not borne out by the Operations Manual. In fact, the reading of Rule 141 of the Aircraft Rules would suggest that the duties of the PIC are subject to Rule 140B, in which case, since the Operations Manual of the Appellant herein is clearly at variance with the contention that the PIC performs a supervisory rule, that argument too has no substance.

29. We are of the firm opinion that the factual determination in respect of whether the Respondents were "Workman" or not has already been carried out by the learned Industrial Tribunal and thereafter been subjected to further scrutiny by the Learned Single Judge. A determination to this effect, based on an analysis of the factual matrix has already been rendered, based on which, it has been held that pilots are highly skilled personnel who carry out technical and operational duties, their primary and foremost function being the flying of the aircraft.

30. Any ancillary tasks that they may be called upon to perform in the course of executing their principal duties cannot be permitted to colour or redefine the true nature of the work undertaken by a pilot. Such ancillary functions cannot, in any manner, dilute or overshadow the essential character of the duties discharged by a pilot in charge. To this effect, we concur with the finding of the learned Calcutta High Court in ***Indian Iron and Steel*** (*supra*).

31. We are also of the considered view that, in the present case, applying the test laid down by the Hon'ble Supreme Court in ***S.K. Maini*** *(supra)***, *Bangalore Water Supply*** *(supra)***,** and ***Arkal Govind Raj Rao v. Ciba Geigy of India Ltd.***[14], the true nature of the work performed by the pilot squarely falls within the four corners of Section 2(s) of the ID Act.

32. We are of the clear view that the salary component that is being raised is simply a red herring, since it can only be taken into consideration for the purpose of the determination in respect of someone who performs supervisory functions. It cannot, however, be relied upon to determine whether a person is, in the first instance, a "workman" under Section 2(s) of the ID Act. Thus, the salary aspect is wholly immaterial in the present adjudication.

33. We have already rendered a finding that the Respondent herein verily falls within the four corners of the definition of a "Workman" in Section 2(s) given the skilled and technical nature of functions he/she performs. Resultantly, there arises no need for recourse to the exceptions enumerated in Section 2(s) and in particular Section 2(s)(iv) thereof which speaks of a person employed in a supervisory capacity or the stipulation pertaining to the salary of such persons.

[14] (1985) 3 SCC 371

34. With respect to the judgment impugned in LPA No. 618/2015, it is apparent that the learned Single Judge therein did not have the benefit of the Judgment rendered in the connected LPAs, *namely*, LPA Nos. 142/2013, 141/2013 & 143/2013, which constituted the impugned judgments in the other Appeals.

35. Had the said judgment been brought to the attention of the learned Single Judge, it would undoubtedly have assisted in the adjudication, as the question regarding whether a pilot in charge is or is not a workman had already been conclusively determined therein.

36. It is evident, that the Appellant herein, who was the Petitioner in W.P. No. 1490/2012, chose not to apprise the learned Single Judge of the Judgment dated 12.02.2013, which stands impugned in the other LPAs.

37. In these circumstances, we are of the view that the learned Single Judge's direction remanding the matter for a determination on whether the Appellant in LPA No. 618/2015 was a workman is clearly unsustainable and is, accordingly, set aside.

38. The question of payment of back-wages has not been raised in the batch of three LPAs and only requires adjudication in LPA 618/2025. Since the learned Single Judge directed the remand of the matter on the basis of a jurisdictional deficiency and since we have held that the said conclusion was manifestly erroneous, and considering the fact that the Ld. Industrial Tribunal in its ultimate analysis was clearly of the opinion that the dismissal of the Workman was patently illegal, having been subjected to such abrupt action without in any manner providing any opportunity or occasion to the Workman, prior to such a drastic step, and also since the said action was apparently predicated on the Workman demanding his with-held

salary, leading to the act of termination, we are of the view that the said termination is bad in law and patently illegal, and applying the Judgment in ***Deepali Gundu*** (*Supra*), and in particular, para 38 thereof, there is no apparent error in the conclusion of the learned Industrial Tribunal. The relevant portions of the said Judgement are reproduced hereinbelow for reference:

> "**38.** The propositions which can be culled out from the aforementioned judgments are:
>
> **38.1.** In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
>
> **38.2.** The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.
>
> **38.3.** Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.
>
> **38.4.** The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that

the employer had foisted a false charge, then there will be ample justification for award of full back wages.

38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in *Hindustan Tin Works (P) Ltd.* v. *Employees* [*Hindustan Tin Works (P) Ltd.* v. *Employees*, (1979) 2 SCC 80: 1979 SCC (L&S) 53].

38.7. The observation made in *J.K. Synthetics Ltd.* v. *K.P. Agrawal* [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651] that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [*Hindustan Tin Works (P) Ltd.* v. *Employees*, (1979) 2 SCC 80 : 1979 SCC (L&S) 53], [*Surendra Kumar Verma* v. *Central Govt. Industrial Tribunal-cum-Labour Court*, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] referred to hereinabove and cannot be treated as good law. This part of the judgment is also

against the very concept of reinstatement of an employee/workman."

(emphasis added)

CONCLUSION:

39. In view of the foregoing facts, circumstances, and the applicable legal principles, we find no infirmity in the judgment impugned in LPA Nos. 141/2013, 142/2013, and 143/2013. Accordingly, the Impugned Judgment dated 12.02.2013 is affirmed.

40. However, in so far as LPA No. 618/2015 is concerned, we are of the considered view that the judgment under challenge is unsustainable. Consequently, the Impugned Judgment dated 02.07.2015 is set aside, and the Appeal is allowed.

41. The present Appeals, along with pending application(s), if any, are disposed of in the above terms.

42. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 11, 2025/nd/kr