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INDIAN AIRLINES LIMITED

v.

CAPT. RAMAN DOULAGAR

NOVEMBER 9, 2006

B

[ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.]

Constitution of India, 1950; Article 139-A(2):

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Transfer Petition—Transferring from Madras High Court to Delhi High Court on the ground of identical issues—Held: Petition pending in Delhi High Court involving conceptually identical issues—Hence, transfer of writ petition from Madras High Court to Delhi High Court allowed—Directions issued.

D

Petitioner-Indian Airlines Limited filed a Transfer Petition seeking transfer of a Writ Petition pending before the Madras High Court to the Delhi High Court on the ground that several other writ petitions involving identical issues are pending before the Delhi High Court.

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Respondent contended that the prayer for transfer of the petition has been made mainly on the ground that in the event there are conflicting decisions, it would not be in the interest of the parties; that there is no scope for conflicting views being expressed by the two High Courts, as the controversy involved is settled by the decision of this Court in *Regional Provident Fund Commissioner, Mangalore v. Central Arecanut & Coca Marketing and Processing Coop. Ltd., Mangalore*; and that in the writ

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petition, pending before the Madras High Court, certain additional issues are also involved.

Allowing the petition, the Court

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HELD: It is clear that the writ petitions pending before the Madras High Court and the Delhi High Court are conceptually identical. Whether the decision in *Regional Provident Fund Commissioner's case* has any relevance can be considered by the High Court where all the petitions could be taken up. Therefore, it is a fit case where the Writ Petition pending before the Madras High Court is to be transferred to the Delhi High Court to be taken

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up along with other pending Writ Petitions. [788-H; 789-A-D]

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Regional Provident Fund Commissioner, Mangalore v. Central Arecanut & Coca Marketing and Processing coop. Ltd., Mangalore, [2006] 2 SCC 381, referred to.

CIVIL ORIGINAL JURISDICTION : Transfer Petition (Civil) No.214 of 2006.

B

Petition under Article 139-A (2) of the Constitution of India for transfer of the W.P. No. 3992 of 2006 titled *Capt. Raman Douglagar v. Indian Airlines Limited* Pending before the Hon'ble High Court of Judicature at Madras to the Hon'ble Delhi High Court .

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L. Nageswara Rao, Vinay K. Shailendra, Ajay Dahiya Shivendra Dwivedi and R.S. Suri for the Petitioner.

H.P. Sharma and K.S. Rana for the Respondent.

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The Judgment of the Court was delivered by:

ARIJIT PASAYAT, J. This petition for transfer has been filed under Article 139-A (2) of the Constitution of India, 1950 (in short the 'Constitution'). It has been filed by the Indian Airlines Limited seeking transfer of Writ Petition (Civil) No. 3992 of 2006 titled "Captain Raman Doulagar v. Indian Airlines Limited" pending before the Madras High Court to the Delhi High Court. Prayer has been made primarily on the ground that several other writ petitions involving identical issues are pending before the Delhi High Court.

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Learned counsel for the respondent on the other submitted that the prayer has been made mainly on the ground that in the event there are conflicting decisions, it would not be in the interest of the parties. It is submitted that there is no scope for conflicting views being expressed by the two High Courts, as the controversy involved is settled by a decision of this Court in *Regional Provident Fund Commissioner, Mangalore v. Central Arecanut & Coca Marketing and Processing Coop. Ltd., Mangalore* [2006] 2 SCC 381. A reference is made to Paragraphs 13 and 14 of the judgment. It is also submitted that in the writ petition, pending before the Madras High Court, certain additional issues are also involved.

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The prayers made in the Writ Petitions before the Madras High Court and the Delhi High Court needs to be examined. In the Madras High Court

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A the prayers *inter-alia* are as follows:

“For all the aforesaid reasons, it is prayed that this Hon’ble Court may be pleased to issue a Writ of Certiorari or Mandamus or any other appropriate Writ, Order or Direction calling for the records of the respondent relating to the impugned Seniority List circulated vide letter no. HPDO1/O-2601 dated 14.7.2004 and quash the same and consequently direct the respondent to fix the seniority of the petitioner herein above 50th, 5th and 52nd batches of Trainee-Pilots and pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.

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It is, therefore, further prayed that this Hon’ble Court may be pleased to direct the respondent to send the petitioner herein forthwith for Pilot-in-Command (P.I.C.) Training in consonance with the policy laid down for the petitioners-batch (STP-1), pending disposal of the above Writ Petition, and pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.”

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Before the Delhi High Court the basic prayers are as follows:

“a writ, order or direction in the nature of mandamus or any other writ of like nature quashing the impugned Draft Seniority List of First officers, dated 14 July, 2004 and directing the respondent to treat STP-O1 batch, including the petitioner, separate and independent from their counterparts of the Trainee Pilot lineage for all purposes including promotion to the rank of Commander on the basis of one eligibility.

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A writ, order or direction in the nature of mandamus quashing the impugned Draft Seniority List of First Officers, dated 14 July, 2004 and directing the respondents to place his batch, including the petitioner, above all those of Trainee Pilots lineage, including 50th, 51st and 52nd batches of Trainee Pilots that completed their training and absorbed as a batch in the regular cadre of Pilots of Indian Airlines after the publication of their notification in press on 13th August, 2001 adopting the Scheme of Sr. Trainee Pilots against which the petitioner was enrolled as a Sr. Trainee Pilot and to give consequential benefits to the petitioner.”

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H On a perusal of the primary stands as culled out from the prayers made it is clear that they are conceptually identical. Whether the decision in *Regional*

Provident Fund Commissioner's case (supra) has any relevance can be considered by the High Court where all the petitions can be taken up. Therefore, we consider it to be a fit case where the Writ Petition No.3992 of 2006 pending before the Madras High Court is to be transferred to the Delhi High Court to be taken up along with Writ Petition (Civil) Nos.311 of 2005, 957 of 2005 and 958 of 2005. A

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The transfer petition is accordingly allowed.

S.K.S.

Appeal allowed.