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Delhi High Court holds that despite not performing public function, private airlines amenable to writ jurisdiction in cases emanating from award of Industrial Tribunal

In the recent decision of ***Sauraj Singh vs. M/s Indian Airlines Limited and Anr.***[1], the High Court of Delhi ("**Delhi HC**") addressed the issue of whether private airlines, particularly, Air India Limited ("**Air India**") (formerly known as Indian Airlines Limited prior to its privatisation in 2022), are amenable to writ jurisdiction under Articles 226 and 227 of the Constitution of India ("**Constitution**"). The Delhi HC held that while a private entity like Air India may not ordinarily be amenable to writ jurisdiction, the position is materially different where the matter concerns a challenge against an award passed by a court or tribunal under the Industrial Disputes Act, 1947 ("**ID Act**"). The Delhi HC reasoned that such a challenge would be maintainable in writ jurisdiction even against private parties, as law does not provide for any other remedy against the award. It was also clarified that in such cases, the challenge is against the adjudicatory process and the award, rather than being against a private party, and therefore, the High Courts can entertain such writ petitions.

On merits, the Delhi HC upheld the finding of the Central Government Industrial Tribunal ("**CGIT**") that the retrenchment of the workmen was illegal for non-compliance with Section 25-F[2] of the ID Act but declined to grant reinstatement. However, the Delhi HC significantly enhanced the compensation awarded by the CGIT.

Brief facts

The judgment is the culmination of a batch of writ petitions under Article 226[3] and 227[4] of the Constitution filed by various workmen and their unions challenging awards passed by the CGIT in several industrial disputes ("**Writ Petitions**").

Briefly stated, from 1993 to 1998, Air India engaged various workmen as casual, daily-rated employees pursuant to various orders passed by the Delhi HC. The Delhi HC, *vide* an earlier judgement dated May 9, 1997, directed Air India to engage casual workers on a daily-rated basis as per its requirements, from a panel prepared and approved on

[1] W.P. (C) 377 of 2013 (decided on May 8, 2026)
[2] Section 25-F of the ID Act lays down the conditions precedent to retrenchment of workmen. It lays down the following 3 (three) conditions: (a) giving 1 (one) month's notice in writing indicating reasons for retrenchment or payment of 1 (one) month's salary in lieu of such notice; (b) payment of compensation equivalent to 15 (fifteen) days average pay for every completed year of continuous service or any part thereof in excess of 6 (six) months; and (c) notice in prescribed manner is served on appropriate government or such authority as may be specified by the appropriate government.
[3] Article 226 of the Constitution empowers High Courts in India to issue writs, orders, or directions to any person, authority or government for the enforcement of rights enshrined in Part III of the Constitution or for any other purposes.
[4] Article 227 of the Constitution grants every High Court supervisory power over all subordinate courts and tribunals within its jurisdiction.

November 20, 1990. By the said order, the Delhi HC further clarified that casual workers engaged by public undertakings like Air India (before privatisation) may be continued in engagement till regular posts are filled in accordance with the applicable recruitment rules.

The services of some workmen were terminated between August 1997 and October 1998, without notice, payment of wages in lieu of notice, or even retrenchment compensation even though they had rendered continuous service for more than 240 (two hundred and forty) days in a calendar year (as contemplated under Section 25-B of the ID Act).

These workmen initiated proceedings under the ID Act and demanded reinstatement with continuity and full back wages. Before the CGIT, Air India contended that the workmen had been engaged pursuant to order dated May 9, 1997. Therefore, their termination did not cause any violation of statutory provision, particularly Section 25-B of the ID Act.

However, on July 27, 2012, the CGIT passed an Award ("**Award**") holding the terminations to be illegal for violating Section 25-F of the ID Act. However, instead of granting reinstatement, the Award granted compensation ranging from INR 25,000 (Indian Rupees twenty-five thousand) to INR 55,000 (Indian Rupees fifty-five thousand) depending on the length of service. The CGIT also held that the workmen were not entitled to be reinstated as their engagement was *de hors* the applicable rules, and accordingly, they had no right of continuance of employment.

The workmen thereafter filed the Writ Petitions before the Delhi HC, challenging the Award, primarily on the ground that the CGIT erred in substituting the primary remedy of reinstatement with mere compensation even after categorically finding that termination was illegal.

In the Writ Petitions, Air India raised a preliminary objection on maintainability of the Writ Petitions on the ground that, having been privatised in 2022, it was not amenable to writ jurisdiction.

Issues

The following legal or factual issues arose for consideration by the Delhi HC.

1. Whether the Writ Petitions were maintainable against Air India, i.e., a private airline/ party?
2. Whether awards passed by tribunals under the ID Act are immune from challenge before any forum?
3. On merits, whether the Award directing monetary compensation in lieu of reinstatement warranted interference by the Delhi HC?

As a clarification, our analysis is confined to the first issue, i.e., whether private parties are amenable to writ jurisdiction.

Findings and Analysis

The Delhi HC noted the decision of the Supreme Court of India ("**Supreme Court**") in *Mr. R.S. Madireddy and Anr. vs. Union of India and Ors.*[5], where the Supreme Court held that no writ petition is maintainable against Air India, as following its privatisation, it ceased to fall within the definition of 'State' under Article 12 of the Constitution, "*is not performing any public duty*" and is only performing "*commercial operations, plain and simple*".

However, the Delhi HC distinguished this decision on the basis that in *Madireddy* (supra), the petitioners directly invoked writ jurisdiction without first exhausting the alternate statutory remedy, whereas in the present case, the petitioners invoked writ jurisdiction against the Award after exhausting their remedies under the ID Act. The Delhi HC clarified that *Madireddy* (supra) does not disapprove the exercise of jurisdiction under Article 226 of the Constitution *per se*, but only the direct invocation of such jurisdiction against a private entity in a service dispute, particularly when statutory remedies have not been exhausted.

[5] 2024 INSC 425

In this context, the Delhi HC noted that refraining to exercise writ jurisdiction in industrial disputes involving private parties, even where statutory remedies had been exhausted, would render the Award immune from challenge, which cannot be the intention of the legislature. The Delhi HC relied upon the Supreme Court's judgement in *Hindustan Lever Limited v. B.N. Dongre*[6] to reiterate that since no remedy was available under the ID Act against the decision of CGIT, aggrieved parties could invoke writ jurisdiction under Articles 226 or 227 of the Constitution.

Finally, the Delhi HC concluded that even though a private entity like Air India (which is not discharging any public function) may not ordinarily be amenable to writ jurisdiction, the position differs where the dispute arises from an adjudication under labour laws. Once a labour court or industrial tribunal renders an award, such award would be subject to judicial review under Articles 226 or227 of the Constitution, even if it involves private parties, as in such cases, the writ is directed against the adjudicatory process and the award, and not merely the private entity.

On merits, Delhi HC upheld the findings of CGIT and held that neither of the conditions for retrenchment mandated by Section 25-F of the ID Act were complied with. The workmen were terminated without any notice or wages in lieu thereof, and without retrenchment compensation. Thus, the retrenchment was found to be *ex facie* illegal. However, the Delhi HC found that reinstatement may not be an appropriate remedy and ends of justice would be met by substituting the relief of reinstatement with monetary compensation. Consequently, the Delhi HC enhanced the amounts awarded by the CGIT and directed the workmen to be paid INR 1,25,000 (Indian Rupees one lakh twenty-five thousand) to INR 3,75,000 (Indian Rupees three lakh seventy-five thousand) depending on their length of service.

Conclusion

The judgment is significant as it carves out a nuanced exception to maintainability of writ against private parties like Air India. While the Delhi HC accepts the principle laid down in *Madireddy* (supra) that a private entity performing no public function is not ordinarily amenable to writ jurisdiction, it draws a clear distinction where the challenge is to an award passed by a court or tribunal under the ID Act. In such cases, the supervisory jurisdiction of the High Court under Articles 226 and 227 of the Constitution remains available, because the writ is directed at the adjudicatory process and the award rather than at the private employer itself.

This reasoning rests on the absence of any statutory appellate remedy against awards under the ID Act, and the settled principle that awards tainted by patent illegality or jurisdictional error cannot be rendered immune from judicial scrutiny merely because the employer is a private entity.

Earlier, *Madireddy* (supra) was an absolute authority for the proposition that private airlines are not amenable to writ jurisdiction as they are not performing any public duty and accordingly, do not qualify the 'functionality test'.

However, Delhi HC's reasoning means that a privatised or private airline employer cannot assume blanket immunity from Article 226 proceedings. Where a dispute has traversed the statutory adjudicatory machinery and an award has been rendered under the ID Act, the High Court retains supervisory jurisdiction under Article 226 and 227 of the Constitution. It clarified that what was disapproved in *Madireddy* (supra) was not the exercise of jurisdiction under Article 226 *per se*, but its direct invocation against a private entity in a service dispute where statutory remedies had not been exhausted.

[6] AIR 1995 SC 817

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