

TO BE FILLED BY HAND KINDLY FILE ADDL MEMO OF PARTIES

LISTING PROFORMA

Page 1

INSTRUCTIONS : 1. DO NOT WRITE OUT SIDE THE BOXES 3. ONE CHARACTER IN EACH BOX.
2. WRITE IN BLOOK CAPITAL LETTERS. 4. DO NOT Staple the Sheet.

IN THE HIGH COURT OF DELHI AT NEW DELHI

Case Type

Number

Year

WP (C) No

OF

2017

IN THE MATTER OF :-

NAME YESHWANTH SHENOY

PLAIN TIF / PETITIONER

Versus

NAME THE UNION OF INDIA

DEFENDANT / RESPONDENT

ANR

1. (a) Case Category

WP (C) 2017

(b) Case Category

WP (C) 2017

2 Date of Impugned order

/ /

2 (a) Case Type / Number

OF

3 Similar Matter

Case Type / Number

OF

4 Statute Involved

Under Article 226 Constitution of India

520266
K

Criminal Matters - Code 100 to 105

FIR No.

FIR Date

Police Station

Service Matters - Code 500 to 505

Department / Authority /

Organization etc.

Motors Accident Claim Matters - Code 600

Insurance Company

YESHWANTH SHENOY
PRIYADARSHINI

DATE - 4 / 12 / 2017

VEEKSHNAM ROAD
ERNAKULAM - 682018

Lawyers Code

K/101/2001

IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO.

OF 2017

In the matter of Public Interest Litigation

Yeshwanth Shenoy

.....Petitioner

Versus

The Union of India & Another

.....Respondents

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New Delhi

Date : 04.12.2017

Filed by:

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IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO.

OF 2017

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URGENT APPLICATION

To

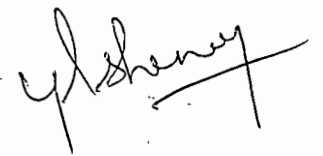
The Registrar
Delhi High Court
New Delhi.

Madam / Sir,

Please treat the accompanying Writ Petition as an urgent one. The grounds of urgency are the threat to the lives of passengers and people on the ground because of the blatant violation of the Aircraft Act, 1934 by the DGCA (Respondent No.2) entrusted with Aviation Safety. The harsh winters of North India and the increasing incidents involving fatigued pilots require immediate intervention of this Hon'ble Court to prevent accidents and save lives of people.

New Delhi

Dated : 4 December 2017



PETITIONER/APPLICANT

PARTY IN PERSON

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IN THE HIGH COURT OF DELHI AT NEW DELHI
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In the matter of Public Interest Litigation

Yeshwanth Shenoy

.....Petitioner

Versus

The Union of India & Others

.....Respondents

MEMO OF PARTIES

In the matter of Public Interest Litigation

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.....PETITIONER

Vs.

1. The Union of India,
Through the Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan, Safdarjung Airport,
Aurbindo Marg, New Delhi 110 003.
2. Directorate General of Civil Aviation
Through the Director General,
Aurbindo Marg, Opp.Safdarjung Airport,
New Delhi 110 003.

.....RESPONDENTS

NEW-DELHI
4 December 2017



(YESHWANTH SHENOY)
PETITIONER IN PERSON
"Priyadarshini",
Veekshnam Road,
Ernakulam -682018

NOTICE OF MOTION

**IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)**

WRIT PETITION (CIVIL) NO. OF 2017

In the matter of Public Interest Litigation

Yeshwanth ShenoyPetitioner

Versus

The Union of India & AnotherRespondents

Sir,

The enclosed writ petition in the aforesaid matter as being filed on behalf of the Petitioner and is likely to be listed on ... December 2017 or any date thereafter, Please take notice accordingly.

New Delhi

Date : 04.12.2017



PETITIONER/APPLICANT

FILED BY PARTY IN PERSON

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IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO. OF 2017

In the matter of Public Interest Litigation

Yeshwanth ShenoyPetitioner

Versus

The Union of India & AnotherRespondents

SYNOPSIS & LIST OF DATES

The Petitioner while researching on Aviation Safety found that many accidents had occurred to 'Pilot Fatigue' and these accidents could easily have been avoided if FDTL (Flight Duty Time Limitations) Regulations are properly implemented. In case of India, the FDTL regulations that were followed before the Mangalore Air Crash was that of 1992 and was outdated. One of the Contributing factors to the Mangalore Air Crash was Pilot Fatigue while operating in the Window of Circadian Low (WOCL). Though India had in July 2007 prepared a draft FDTL, it never saw the light of the day because the Air Operators opposed it on the ground of 'commercial loss'. Later, a watered-down version was notified and implemented somewhere in 2012-2014. Since India does not have a robust safety inspectorate, India qualified for the Prescriptive Approach to manage 'pilot fatigue'. However, through Clause 4 of the FDTL CAR of the DGCA, 'variations' were allowed to Air Operators without any scientific study or 'risk assessment' in violation of their own Regulations. These 'Variations' are performance based approach to manage fatigue and requires scientific study and risk assessment. As a consequence of such callous, deliberate and fraudulent action of the Respondent No.2, DGCA there has been a number of incidents involving Indian Air Carriers both domestic and international and it is only a 'miracle' that none of these incidents converted itself into 'accidents'. Air Regulations are international in nature and India gets audited by the ICAO (International Civil Aviation Organisation) once in every two years, but because of India's poor record, the ICAO team has visited more often. However, India, through the DGCA,

deliberately and willfully deceives the international community through its documentation. While India has submitted the FDTL CAR as the regulation that governs management of Pilot fatigue (necessarily telling the global community that India follows prescriptive approach), it has deliberately not disclosed the variations approved (which are based on the Performance based approach to manage fatigue to which India does not quality). Assuming there is any accident involving Indian Air Carriers, the foreign jurisdiction will certainly treat the act as 'fraudulent' and the compensation claims would multiply several times more than the normal because of the deliberate and willful act of suppressing truth and it will also impact on the reputation of India in the International stage. The reason for the Petitioner to move this Hon'ble Court with urgency is the dreadful winter season that brings visibility to near zero and directly impacts FDTL and the safety of passengers and people on ground. Considering the DGCA's willful act of deceit, the Petitioner presses to stay all 'variations' approved by the DGCA as an interim measure.

LIST OF DATES

1992 :	FDTL Regulations of the DGCA
May 2010:	Crash of IX 812 killing 158 people.
August 2011:	FDTL CAR promulgated but not implemented
2012-2013:	FDTL CAR implemented.
2013-2017:	DGCA approves exceptions in violation of CAR.

plshenoy

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IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO.

OF 2017

In the matter of Public Interest Litigation

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.....PETITIONER

Vs.

1. The Union of India,
Through the Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjung Airport, Aurbindo Marg,
New Delhi 110 003.
2. Directorate General of Civil Aviation
Through the Director General,
Aurbindo Marg, Opp. Safdarjung Airport,
New Delhi 110 003.

.....RESPONDENTS

A WRIT PETITION IN PUBLIC INTEREST UNDER ARTICLE 226 READ WITH ARTICLE 21 OF THE CONSTITUTION OF INDIA HIGHLIGHTING THE ACTS AND OMISSIONS OF THE AVIATION REGULATOR IN COMPROMISING AVIATION SAFETY AND CONSEQUENTLY THE LIFE OF FLYERS AND PEOPLE ON GROUND.

To,

THE HON'BLE CHIEF JUSTICE OF DELHI AND HIS COMPANION JUDGES OF THE HON'BLE HIGH COURT OF DELHI, AT NEW DELHI

The Humble Petition
of the Petitioner
above-named

MOST RESPECTFULLY SHOWETH: -

1. That the Petitioner is filing the instant writ petition in public interest. The Petitioner has no personal interest in the litigation and the petition is not guided by self-gain or for gain of any other person / institution / body and that there is no motive other than of public interest in filing the writ petition. In any case, the Petitioner has *locus standi* on his own right as a frequent flyer as well as being a resident of India. The Petitioner is filing this as a PIL instead of a Writ so that there is no possibility of a 'withdrawal' at any point in time and the matter will see its logical end. However, the Petitioner asserts that he is no manner claiming the *locus* through the crutches of Public Interest.
2. That the Petitioner has based the instant writ petition from authentic information and documents made available through publicly available documents, either obtained through RTI or from the websites of the Government and other available public information. All that the Petitioner does is to simplify the technicalities of Aviation to a language that is understood by Judges, advocates and the general public along with real incidents to prove this case.
3. That the Petition, if allowed, would benefit not just the citizens of this country but globally by ensuring compliance to Air Safety Regulations that ensures Air Safety. The Petitioner respectfully submits that the rule of law is essential for democracy and brazen violation of law by the State itself is to the detriment of the people including the Petitioner. Since these persons are too numerous and have no knowledge of the technicalities involved, they are unlikely to approach this Hon'ble Court on this issue. Hence the Petitioner herein prefers this PIL.
4. The affected parties by the orders sought in the Writ Petition would be the Respondents named herein. There would be air operators who could be affected, the pilot community as a whole and so would be the flyers and people on the ground. No objective will be served by randomly making all of them parties as the main contention of this Writ Petition is the deliberate, willful and fraudulent conduct of the State (the Respondent No.2) in violating Domestic Air Regulations based on International norms. To the best of the knowledge of the Petitioner, no other persons / bodies / institutions are likely to be affected by the orders sought in the writ petition.

5. That the Petitioner is an advocate enrolled in the rolls of the Bar Council of Kerala in 2001. The Petitioner has a Masters Degree in Law from University of Mumbai and also from Turin University (Italy). The Petitioner has also interned with the United Nations Interregional Crime and Justice Research Institute. The Petitioner has authored a few books, the last being released in June 2016 titled "Biodiversity: Law & Practice". The Petitioner has means to pay if any cost is imposed by the Hon'ble Court. The Petitioner respectfully submits that the Petitioner has spent substantial time to study technicalities involved in Aviation Safety and this by no means has been an easy task but considering that the realm of Aviation Regulations is largely untouched and the Aviation Authorities run the show on their whims and fancies putting aviation safety at great threat, the Petitioner had no choice but to study this area so as to be able to 'assist' the Hon'ble Court efficiently and to discharge his duties as an 'advocate' who cannot turn a blind eye like the common man to the blatant non-compliance in an industry that is governed not just by national legislations but by international law. Any air accident opens up international jurisdictions and therefore the matter before this Hon'ble Court has to be looked at from the international law as it affects life and safety of people across the world. The Petitioner states that the Hon'ble High Court of Bombay had in its interim orders recorded the *bonafides* of the Petitioner in espousing the cause of Aviation Safety and even awarded Rs.10,000 to meet the expenses of the litigation. The copy of the interim orders of the High Court of Bombay is annexed herewith and marked as **Annexure-P1**.
6. That the Petitioner has made several representations to the Respondents to ensure Aviation safety and the Respondents are well aware of threats but have not acted because of the involvement of its own officers at top levels. The Petitioner asserts that 'Aviation Safety' has attained 'critical' levels because of the large-scale violations of Air Regulations and these violations are with active collusion and consent of the Aviation authorities and therefore are willful, intentional, deceptive and fraudulent. The Petitioner asserts that getting Aviation Safety back to shape is an onerous task and will require periodic monitoring by High Court. In many cases there is actual collusion of the Aviation Authorities with private establishments and necessarily involve criminal acts of corruption. The very fact that different levels of aviation authorities viz. the AAI, DGCA and the MoCA failed would lead only

to one inescapable conclusion that the Aviation system has failed *in toto* in the country and its revival or repair does not look possible because of the 'corrupt' involvement of the top officials.

7. That the petitioner has filed several PILs, a list of which is as under:

SL. No.	Pending Litigation	Status	Subject Matter
1.	Bombay High Court (PIL 86/ 2014)	Pending. Interim orders for demolition of 437 structures in part or full.	Aviation Safety
2.	Supreme Court W.P.(Criminal) No. 59/2012	Pending. <i>Rule Nisi</i>	Challenge to Constitutionality of Sec.138 of NI Act.
3.	Kerala High Court WPC 21085/2016	Pending	Aviation Safety
4.	Kerala High Court WPC 21089/2016	Pending	On direct and indirect funding of Air India
5.	Bombay High Court PIL (L) 13/2017	Pending	Fraudulent sale of apartments in buildings deemed to be 'obstacles'.
6.	Bombay High Court Cr. PIL (L) 7/2017	Pending	Aviation Security and action against officials involved in compromising Aviation Safety.
7.	Delhi High Court W.P. (C) 7409/2017	Pending	Aviation Safety and Security and Aeronautical Study Frauds.

8. The Respondent No.1 is the Union of India represented by the Secretary, Ministry of Civil Aviation. The Respondent No.2 is the Directorate General of Civil Aviation, represented by its Director General, which is the regulator who has to ensure safety compliances in accordance with International Regulations adopted by Domestic Laws.

THE CASE IN BRIEF

9. The Petitioner while dealing with the issue of Aviation Safety noted a high prevalence of 'fatigue' being the direct cause for air accident / incident and therefore drew his attention to the FDTL regulations. 'Fatigue' has been found as the primary cause of many of the Aviation Accidents worldwide and has also been found as a 'causative factor' in the crash of IX 812 on 22 May 2010 that killed 158 people. The Petitioner also started his journey into the technical world of Aviation Safety because of this unfortunate crash that could easily have been prevented if the Judicial system in this Country was a little more alert to the aspect of Aviation Safety. However, because of the technical

nature of Aviation Safety issues, it would not have been possible for the Judiciary to understand the issues in the late 90's or early 2000. It is with this understanding that the Petitioner is simplifying the technical aspect and assisting this Hon'ble Court to ensure Article 21 is enforced when the State has failed in enforcing the same. A news article on the BBC which highlights 'pilot fatigue' as one of the biggest threat to aviation safety is annexed herewith and marked as **Annexure P-2**.

10. The Petitioner states that the crew in an aircraft comprises of the 'flight crew' or the cockpit crew (pilots) and the 'cabin crew'. The 'alertness' of both these crews are very important for 'aviation safety'. The Respondent No.2 regulates various aspects of Air Safety through Civil Aviation Requirements (CAR's). The present petition deals with the FDTL for the flight crew. The Respondent No.2 has issued CAR SECTION 7 – FLIGHT CREW STANDARDS SERIES 'J', PART III ISSUE II, dated 11 AUGUST 2011 to regulate the Flight Duty for the Flight crew. A copy of the said CAR is annexed herewith and marked as **Annexure P-3**.
11. The Petitioner states that this CAR is not in the best interests of the pilots and consequentially Aviation Safety when compared to the best standards worldwide. However, this is a welcome change from the outdated AIC 28 of 1992. The Specific issue that the Petitioner seeks to raise through this petition is not about this CAR being amongst the best globally, but about the deliberate and willful violation of this CAR by the Respondent No.2 to the detriment of the pilots and the cause of Aviation safety which directly threaten the lives of people.
12. The Petitioner draws the attention of this Hon'ble Court to clause 4.2 of the Car which is reproduced below:

DGCA may approve, in exceptional circumstances, variations to these regulations on the basis of a risk assessment provided by the operator. Approved variations shall provide a level of safety equivalent to, or better than, that achieved through the prescriptive fatigue management regulations specified in this CAR.
13. The Petitioner states that the DGCA has approved 'variations' to several Air Operators in violation of this CAR. By the above words, the 'variations' that could be approved has to "provide a level of safety

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EQUIVALENT to, or BETTER THAN, that achieved through the prescriptive fatigue management regulations specified in this CAR". The Respondent No.2 deliberately and intentionally approved the variations by colluding with the air operators because for air operator's commercial profits are more important than human lives. The acts of the Respondent No.2 is in violation of both Domestic and international law and in fact deceives the international community by fraud.

14. The Petitioner simplifies the variations by giving a simple example. For eg. If for a two-pilot operation, the prescribed maximum time is 8 hours and upto six landings, the variations can decrease the time to say 6 hours and upto 4 landings which will clearly stand to the benefit of the pilot alertness. However, when the same is increased to say 9 hours and upto 8 landings, the same is not to the benefit, but to the detriment of pilot and cannot be accepted. Unfortunately, for reasons best known to the Respondent No.2, they have approved variations to Operators which violate the minimum standards laid down by the CAR. In other words, they have stated that the pilot can rest later for his present 'fatigue'. Fatigue is fatigue and body needs rest to overcome that fatigue. Fatigue is not like 'work' that could be taken care of later. Rest is a physiological need and it cannot be postponed. Fatigue is nothing but shutting down of body functions and is beyond the control of individuals. To understand 'fatigue', it is not rocket science. As advocates we burn midnight oil many a times. Many a time we sleep off over our desk. This shows that many a time we are willing to do things but our physiology does not allow it to happen. The body and mind shuts down even without our willingness and that exactly is 'fatigue'.
15. The Petitioner further points out that for the 'variations' to be approved by the Respondent No.2, the Operator has to provide 'risk assessment'. The Petitioner states that none of the Operators have ever conducted 'risk assessment with their pilots' and these variations have been approved by the Respondent No.2 in violation of their own CAR.
16. The Petitioner respectfully submits that India is a signatory to the Chicago Convention which established the ICAO and is obligated to ensure adherence to the ICAO norms. As regards Fatigue Management, Chapter 4 of Annex 6 and DOC 9966 are the guiding principles for the member states of the ICAO. The Petitioner states that

the ICAO does periodic audit on compliances to ensure Aviation Safety and it is here that India deceives the international community. India, being a sovereign State can adopt any norms that it may choose and all that the ICAO prescribes is to declare the deviation from the ICAO Norms. After deliberate and willful violation of the norms, the Respondent No.2 deceives the international community by making no deviations and assuring India's compliance with International norms.

17. The Petitioner states that the ICAO audit looks at the DGCA CAR's while doing a compliance Audit and if we go by ICAO website, India's compliance is one of the best in the world even equaling Europe and the USA. However, this is achieved by deceit and fraud. As regards FDTL, when the ICAO compliance team visits for the Audit, the Respondent No.2 provides the FDTL CAR but does not disclose the 'variations' it has approved. The Petitioner respectfully submits that the ICAO Standards and Recommended Practices (SARPs support two distinct methods for managing fatigue: (1) the Prescriptive Approach and (2) the Performance based Approach. The FDTL CAR of the Respondent No.2 is based on the Prescriptive Approach, but the 'variations' are based on the Performance based approach. A summary of the ICAO SARP's on Managing Fatigue is annexed herewith and marked as Annexure P-4.

18. **THE PETITIONER RESPECTFULLY SUBMITS THAT WHILE INDIA SHOWS THE ENTIRE WORLD THAT IT HAS A PRESCRIPTIVE APPROACH, IT IN FACT HAS THE PERFORMANCE BASED APPROACH AND THAT TOO WITHOUT IT QUALIFYING TO USE THAT METHOD.** This modus operandi of the Respondent No.2 is not a one-off case. This is the general method of deception that is used by the Respondent No.2 to deceive the international community. As an eg. While the CAR on 'obstacles' shown to the ICAO team is of the Respondent No.2, the one in practice as regards 'obstacles' is that of the Airports Authority of India. The Respondent No.2 in an affidavit filed before the Bombay High Court has categorically stated that when there are two different regulations on the same subject matter, the one of AAI is the one which is the prevailing one. In short, while the ICAO audits India on the DGCA CAR's, the regulations in use are surreptitiously found in some other regulations.

19. The Petitioner respectfully submits that a cursory reading of the

summary will show how India cannot implement the performance based Approach. The Respondent No.2 should have a well-trained State Inspectorate and Prescriptive Fatigue Management Regulations both of which the Respondent No.2 doesn't have. The Air Operators cannot claim FRMS (fatigue Risk Management Systems) as a right but it is a privilege given if the air operator can demonstrate a mature Safety Management System processes to manage Fatigue. The Air Operators in India do not even find experts in Aviation Medicines and manage with fresh MBBS graduates and that too probably on part time basis. Most airline doctors do not even recognize fatigue as a reason to grant sick leave. Pilots must have the option without the fear of reprisal from management. In the worry of the 'Job', both doctors and pilots ignore 'fatigue' and fatigue has clinically been proven to be akin to 'being drunk'. One of the recommendations of Court of Inquiry on IX 812 is the appointment of a full time Aviation Medicine Specialist.

20. The Petitioner states that the fraud is very clear and the Respondent No.2 has to explain this not just to this Hon'ble Court but to the International Community as the fatigue of pilot travels with the pilots outside the territories of India and there have been more than enough examples of pilot fatigue and the consequential compromise to Aviation safety in Foreign skies and any accident will cause dearly to the Government of India both financially and as a loss of international trust and reputation more so because the State (through the DGCA) has deliberately and willfully deceived the international community. The Petitioner is sending a representation to the ICAO along with supporting documents even when the Petitioner is aware that ICAO does not accept 'documentation' from Non-State actors. However, even the ICAO will be in a dilemma because on the one side is the concrete information on the threat to 'Aviation Safety' and on the other, is the Regulations governing procedure. The Petitioner is also writing a paper on this subject matter in an International Journal of repute as to how Aviation Safety is compromised and how International Organizations formed to ensure Air Safety cannot interfere even when concrete information is passed on and thereby threaten the law-abiding States.
17. The Petitioner states that the impact of approving unscientific 'variations' has showed immediate results. In May 2013, an Air India Flight to Delhi from Bangkok had the pilots taking rest with the cabin

crew warming the seats with an auto pilot mode which was turned off by the untrained cabin crew. A copy of the newspaper report of the incident is annexed herewith as **Annexure P-5**. In Feb 2017, the flight crew of Jet airways slept off that German fighters had to escort the aircraft, though the DGCA was quick to blame wrong radio frequencies. A copy of the newspaper report of the incident is annexed herewith as **Annexure P-6**. In March 2017, an Air India flight bettered with German, Belgian and Hungarian Fighter jets escorting the aircraft to Heathrow Airport. A copy of the newspaper report of the incident is annexed herewith as **Annexure P-7**. The Respondent No.2 would blame the radio frequencies, but soon after this back to back incidents the Respondent No.2 let out a regulation that the cabin crew will communicate with flight crew every 20 minutes. A copy of the newspaper report of the regulator's direction is annexed herewith as **Annexure P-8**.

- 18. The Petitioner states that in addition to these international incidents, there are numerous domestic incidents and in spite of the IX 812 COI recommendations, the Respondent has done nothing to manage incidents during the WOCL. What is even more threatening is compromising 'incident' investigation. In Aug 2014, a Jet Airways flight lost altitude (just around the area where MH 17 was shot down) and the investigation was deliberately and willfully botched up. It was so shameful that the Report in fact proves how incapable the officers are to investigate incidents. The Report states that the PIC (Pilot in Command) was in 'controlled rest' in a terrain where 'controlled rest' is prohibited. The co-pilot or the first officer was a lady who had stated in an unrelated police complaint that she was 'suicidal' and just a week before this incident she had a 'divorce'. All these aspects were deliberately ignored and this incident also happened in Foreign Air space.

- 20. The Petitioner states that the causative factor of Mangalore Air Crash as has been recorded by the COI states "*In spite of the availability of adequate rest period prior to flight, the Captain was in a prolonged sleep during the flight, which could have led to sleep inertia. As a result of relatively short period of time between his awakening and approach, it possibly led to impaired judgment. This aspect might have got accentuated while flying in the window of Circadian Low (WOCL).*" The COI in fact made the recommendation of revisiting the FDTL regulations which was outdated and the Respondent No.2 after dragging its feet for some time brought out the new CAR which is

under challenge in this Writ Petition not in its entirety but the manner in which the Respondent No.2 surreptitiously allows 'variations' thereby allowing air operators to stretch the duty hours of the pilots thereby directly threatening Aviation Safety and consequentially human lives.

21. The Respondent No.1 had constituted a committee which had made some good study on FDTL and is known as the Zaidi Report on FDTL. Even the CASAC (Civil Aviation Safety Advisory Council) formed after the Mangalore Air Crash has been vociferous on 'Pilot Fatigue' and yet the Respondent No.2 has been colluding with air operators and compromising safety. The Petitioner categorically states that the actions of Respondent No.2 will have international consequence as it was designed to deceive the international community on Aviation Safety practices of Indian air carriers. This CAR doesn't even take into account reports and recommendation made by the experts appointed by the Respondent No.1. The Respondent No.1 is well aware of the shortcomings but maintains an eerie silence on most of these issues. The Petitioner respectfully submits that the then Jt. DG of the Respondent No.2 had in July 2007 prepared a very scientific FDTL CAR and the Airline operators flocked to the then Cabinet Ministers on the ground that the CAR would mean an extra crew of 30% and the then DG of the Respondent No.2 who was seeking an extension of his term allowed the Ministry to dictate its terms on the Regulator. The Respondent No.2 has never been able thereafter to be independent of the Respondent No.1.

22. The pilots are in a state of perpetual fear because the Respondent No.2 has such strong powers that the livelihood of pilots can easily be robbed by them in broad daylight using their draconian powers. The Pilots has to approach the Respondent No.2 every six months atleast for various approvals. Once the Respondent No.2 takes any call, the Courts are slow to respond because of the technicalities involved and the Respondent No.2 stands at a great advantage in the Courts as well. As an example of the high handedness of the officers of the Respondent No.2, an FIR was registered by the Respondent No.2 against pilots for the error of not quoting the "correct designation" of an officer intoxicated by his ego. A copy of the newspaper report of the incident is annexed herewith and marked as **Annexure P-9**. The air operators are hand in gloves with such officers of Respondent No.2

- and the Respondent No.2 is having a high reputation of being thoroughly corrupt. The less quoted the better it is. The Petitioner states that the pilot associations which have approached courts sometimes do not have the confidence of the pilot community as the office bearers of the association end up with the management of the Air operators and the pilot community loses their confidence and trust. In short, even if every single pilot is aware of and opposes the FDTL regulations, none would have the wherewithal to challenge the Respondent No.2.
23. The Petitioner states that the Petitioner being an advocate has to rely on technical inputs from the pilots and others having technical knowledge and expertise. The Petitioner had sent the first draft to a few pilots and it is heartening to know that the Respondent No.2 has started monitoring FDTL flights for the past week with vigour and have even ensured that certain flights have 3 pilots instead of two. The Petitioner is certainly happy that the Respondent No.2 has started responding to the actions of the Petitioner because at the end, the petitioner is interested only in ensuring Aviation Safety.
24. The Petitioner respectfully submits that all air accidents occur due to multiple failures. No accident ever happens because of any one reason. The study of Petitioner reveals that there are several indicators of the decay of the entire Aviation system and it is only a question of time before a major disaster strikes in the Indian air space or involving Indian air carriers. The FDTL could be a major cause in these accidents as the COI on IX 812 recommended FDTL not just for the crew but also to the ATC and Aircraft Maintenance engineers. IN the IX 812 crash, the ATC officer was heard asking the aircraft to 'backtrack' well after it had crashed. The petitioner himself has witnessed how aircrafts are prepared for the next flight in turn around flights and the less said the better it is. All it requires for a crash is one loose screw. Even assuming a pilot lands an aircraft, it requires an alert crew to evacuate the aircraft and the FDTL for cabin crew is also severely compromised by the Respondent No.2. The requirement of the minimum cabin crew is from the Aviation safety consideration; however, the air operators make the cabin crew to indulge in food service, selling of items etc on board an aircraft which ensures that this cabin crew is also fatigued and are not alert. In short, the Petitioner states that the Respondent No.2 has ensured that it has done everything in its power to cause an accident. The Petitioner asserts that an

accident is well on the horizon and every indicator points to it. The harsh winters of North India along with pilot fatigue is creating the right conditions for the 'perfect storm'. Every winter we have had major incidents and the Petitioner hopes that these incidents do not convert into 'accidents'.

21. The Petitioner points out a very simple reason as to why we blatantly disregard safety in this Country. We put commercial profits way above risk to lives and this is the general culture and the Judiciary unknowingly has contributed to this complacency. The value of a human life is so low that the cost of prevention is far higher than the cost of compensation. After the Mangalore air crash, the Single Judge of Kerala High Court had interpreted the Montreal Convention to mandatorily grant the amount of SDR's (special drawing rights equivalent to about Rs.75 lakhs) which decision was overturned by the Division Bench of the Same Court. The Petitioner did a quick calculation and found out that if the three constitutional heads viz the President, Prime Minister and the Chief Justice were to die in an accident, none of them would have been eligible to even this minimum compensation of Rs.75 lakhs as the salary component with the multiplier would have landed each of these authorities to less than Rs. 40 lakhs. When the lives of Constitutional Authorities are valued so cheaply, there is no way that any kind of compensation to the 'common man' would land these air carriers in any serious financial muddle. The blot of Bhopal compensation is yet to be shaken off our heads. As a contrast, when we see the compensation to which an American citizen would be entitled to, the operators are extremely careful with 'safety functions' and invest big time to prevent accidents.
25. The Petitioner states that the Petitioner has spent substantial time in studying this subject matter and has incurred expenses in bringing the attention of this Hon'ble Court in this neglected area of Aviation Safety. The Petitioner states that filing PIL is extremely expensive and this Hon'ble Court may be pleased to direct the Respondents to pay the costs of the Petition.
26. The Petitioner respectfully submits that the Petitioner is now used to the conduct of the Respondents. They never file their replies on time and the Petitioner is moving an interim application along with this Petition seeking an interim stay on all 'variations' approved by the DGCA and to ensure that the Airlines be allowed to operate according

to the FDTL CAR without any exceptions allowed under Clause 4 of the FDTL CAR under challenge. The balance of convenience is heavily tilted in favour of the Petitioner and the ongoing winter further tilts the scale in favour of the Petitioner where the dense fog and low visibility ensures several pilots are under extreme stress while flying and Fatigue sets in making it extremely dangerous to allow any kind of extension in the duty timings. Just like 'fatigue' not being a rocket science, we have experienced what dense fog and low visibility is. It is impossible to take out vehicles on the highways many a times in this season and if this is the case with Roads, we can only imagine the conditions in the skies where the temperature is lower and the fog would be denser and the pilots will have zero visibility many a times.

27. The Petitioner, though appearing as a party in person, still is aware of the weight of his robe and the responsibility as an officer of the Court and assures the court that he has done enough research in this matter and has made no attempt whatsoever to misrepresent any facts. The Petitioner is clearly having his interests and priorities to human life.

28. The Petitioner is seeking the relief on the following grounds:

GROUNDS:

- A. That the DGCA and MoCA willfully and deliberately compromised Aviation safety by not complying with the Aircraft Act, 1934 and more particularly the FDTL CAR.
- B. The DGCA after having full knowledge of the operators conducting no risk assessment failed to follow the procedure and willfully and deliberately allowed the 'variations' to FDTL norms thereby threatening aviation safety and consequently the lives of people.
- C. The DGCA has deliberately and intentionally deceived the compliance auditors of the ICAO and thereby deceived the international community on the Aviation Safety practices of Indian Air Operators.
- D. The DGCA or the Air Operators lack Aviation Medicine specialists and they do no scientific validation of the schemes they approve nor have they taken any feedback from the pilots.

29. The Petitioner has not approached any other court including Hon'ble Supreme Court for the same previously.

30. That the Petitioner has no other efficacious and adequate remedy except to approach this Hon'ble Court in the present situation and facts narrated herein above.

PRAYERS:

In view of the facts & circumstances stated above, it is prayed that this Hon'ble Court in public interest may be pleased to: -

- A. Quash the Annexure P3 FDTL Regulations as being inconsistent with India's obligations under ICAO.
- B. Direct the Respondent No.1 & 2 to reframe the CAR on FDTL for Flight Crew and involve the stake holders and take into consideration the Zaidi report and international best practice and come out with a CAR which is compliant with ICAO Norms within six months.
- C. Pending hearing of this matter, Direct the Respondent No.2 to immediately withdraw all 'variations' approved and to ensure all operators comply with the present FDTL CAR norms until the new CAR is notified.
- D. Ad-interim orders in terms of prayer clause (C)
- E. Direct the Respondent Nos. 1 & 2 to pay to the Petitioner the cost of filing this PIL and the expenses incurred in pursuing this PIL including travelling and other expenses.
- F. Issue such other writ, direction or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case.

New Delhi

Dated this 4th Day of December 2017



YESHWANTH SHENOY

PETITIONER IN PERSON

IN THE HIGH COURT OF DELHI AT NEW DELHI

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO.

OF 2017

In the matter of Public Interest Litigation

Yeshwanth Shenoy

.....Petitioner

Versus

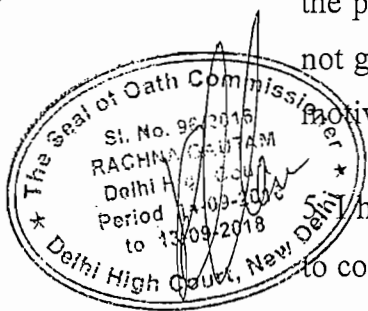
The Union of India & Another

.....Respondents

AFFIDAVIT

I Yeshwanth Shenoy aged 38 years, s/o V.L.Shenoy resident of "Priyadarshini, Veekshnam Road, Ernakulam - 682018, Kerala, Presently in New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the petitioner above named.
2. I have filed the present petition as a Public Interest Litigation.
3. I have gone through the Delhi High Court (Public Interest Litigation) Rules, 2010 and do hereby affirm that the present Public Interest Litigation is in conformity thereof.
4. I have no personal interest in the litigation and neither myself nor anybody in whom I am interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.



I have done whatsoever inquiry/investigation which was in my power to do, to collect all data/material which was available and which was relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material /information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not. I am a petitioner appearing as a party in person and have drafted the synopsis and list of dates and the writ Petition at para 1 to 30 is true to my personal knowledge which I believe to be true.

05 FEB 2017

CERTIFIED THAT THE DEPONENT
 Shri/Smt/Km.....Yeshwanth Shenoy
 S/o W/o.....V.L. Shenoy
 R/o.....Self
 identified by Shri/Smt.....Self
 has solemnly affirmed before me at delhi
 on.....at Sl. No.....(99)
 that the contents of the affidavit which have
 been read & explained to me are true and
 correct to his knowledge.

Yeshwanth Shenoy
 DEPONENT

Self
 I identify the Deponent who
 has signed in my presence

05 DEC 2017

Self
I Identify the Deponent who
has Signed in my Presence

VERIFICATION
04 DEC 2017

Verified on this 4th day of December 2017 at New Delhi that the contents of
the present affidavit are true and correct to my knowledge and belief and
nothing material has been concealed therefrom.

V. Shetty

DEPONENT

The Seal of Oath Commissioner
Sl. No. HC-98/2016
MISS MANJU SINGH
App. by Delhi High Court
Period 14/09-2016
to 13/09-2018
Delhi High Court

04 DEC 2017

CERTIFIED THAT THE DEPONENT
Sh. Smt./Km. *Vasudha Shetty*
S/o W/o *V. Shetty*
R/o *Self*
Identified by Shri/Smt. *Self*
has solemnly affirmed before me at Delhi
at Sl. No. *S9C*
that the contents of the affidavit which have
been read & explained to him/her are true
& correct to his/her knowledge

Oath Commissioner Delhi

ANNEXURE - P-1

PIL. 86-14

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION No. 86 OF 2014
WITH
PERJURY PETITION (St.) No. 5 OF 2016
WITH
NOTICE OF MOTION (L) No. 112 OF 2016
WITH
NOTICE OF MOTION (L) No. 511 OF 2016
WITH
CONTEMPT PETITION (St.) No. 3 OF 2016

Yeshwanth Shenoy Petitioner
Vs.
The Union of India & Ors. Respondents

WITH
WRIT PETITION (St.) No. 166 OF 2016

Hridayana Amit Prasad Petitioner
Vs.
The Union of India & Ors. Respondents

WITH
WRIT PETITION No. 808 OF 2015

Saloni A. Savla & Ors. ... Petitioners
Vs.
Union of India & Ors. ... Respondents

WITH
WRIT PETITION No. 1636 OF 2016

Kryshnajay Developers Pvt. Ltd. & Anr... Petitioners
Vs.
Union of India & Ors. ... Respondents

WITH

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WRIT PETITION No. 2230 OF 2013

Parineeta Co-Op. Housing Society Ltd... Petitioner
Vs.
Secretary,
Ministry of Civil Aviation,
Govt. of India and Ors. ... Respondents

WITH

WRIT PETITION No. 2682 OF 2013

A-Square Mico Developers & Ors. ... Petitioners
Vs.
Secretary,
Ministry of Civil Aviation,
Govt. of India and Ors. ... Respondents

WITH

WRIT PETITION No. 2869 OF 2015

WITH

NOTICE OF MOTION No. 139 OF 2016

WITH

CHAMBER SUMMONS No. 93 OF 2016

Holy Spirit Hospital & Anr. ... Petitioners
Vs.
Municipal Corporation of
Gr. Mumbai & Ors. ... Respondents

WITH

WRIT PETITION (St.) No. 2984 OF 2015

WITH

CHAMBER SUMMONS (St.) No. 469 OF 2015

WITH

CHAMBER SUMMONS (St.) No. 470 OF 2015

Amit Prasad Young Committee ... Petitioners
Vs.
The Union of India & Ors. ... Respondents

WITH

PUBLIC INTEREST LITIGATION No. 46 OF 2016

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WITH
IN PERSON APPLICATION No. 42 OF 2016

Mallayya R. Chhanam ... Petitioner
Vs.
The Union of India & Ors. ... Respondents

Mr. Yeshwant Shenoy, the Applicant / Petitioner in person in PIL. 86/2014.

Mr. M. M. Vashi, Sr. Counsel a/w Aparna Devkar, Makrand Kale i/b M. P. Vashi & Associates, for the Petitioner in WP. 2230/2013.

Mr. Shivraj Kunchge i/b Anjali Awsthi, for the Petitioner in WP. 2682/2013.

Mr. S. C. Naidu a/w Aniket Poojari i/b C. R. Naidu & Co., for the Petitioner in WP. 2869/2015

Mr. Milind Sathe, Sr. Counsel a/w Mr. Kevic Setalwad, Sr. Counsel, Chirag Sud i/b J. J. Shah, for the Petitioner in WP. 1636/2016

Mr. Mallayya R. Chhanam, Petitioner in person in PIL. 46/2016

Ms. Trupti Puranik, for the Respondent - BMC.

Ms. Shilpa Kapil a/w Chidanand Kapil a/w Nupoor Mittal, for Respondent No. 2 in PIL. 86/2014, for Respondent No. 1 in WP 808/2015, for Respondent No. 2 in WP. 2682/2013, for Respondent No. 2 in WP. 2230/2013, for Respondent No. 3 in WP. 2869/2015 and for Respondent No. 2 in WPL. 981/2016.

Mr. Rajiv Chavan, Sr. Counsel a/w Dushyant Kumar, for UOI in NML. 112/2016.

Mr. Rushil Mehta, for Respondent No. 3 in WP. 1636/2016.

Mr. M. S. Bharadwaj, Sr. Counsel for Respondent Nos. 1 & 3 in WPL. 2984/2015.

Mr. R. Basu i/b M/s. The Law Point, for Respondent No. 2 in WPL. 2984/2015.

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- Mr. A. R. Varma a/w Y. R. Mishra, for UOI in WP. 808/2015.
- Mr. Jayesh Vyas, for Applicant in CHSL. 469/2015, CHSL. 470/2015 in WPL. 2984/2015.
- Mr. Y. R. Mishra a/w A. R. Varma, for UOI in WP. 808/2015.
- Mr. Rajesh Singh, for UOI in WP. 2869/2015.
- Mr. Sanjeev Singh a/w Anand Singh, for Respondent No. 1 - UOI in WP. 1636/2014.
- Ms. Shehenaaz Bharucha, a/w Mohamedali M. Chunawala, for Respondent Nos. 1, 4 and 6 in WP. 2682/2014.
- Mr. Jagdish G. Reddy, for Respondent No. 7 in WP. 2682/2014.
- Mr. P. K. Dhakephalkar, Sr. Counsel a/w Abdullah Lakdawala a/w Asha Nair, i/b Diamondwala & Co., for Respondent No. 5 in WPL. 2984/2015.
- Mr. Farid Karachiwala a/w Sneh Mehta i/b Wadia Ghandy & Co., for Mumbai International Air Port Pvt. Ltd. in all petitions.
- Mr. Chirag Mody a/w Ashok Purohit, Tejas Gokhale i/b Ashok Purohit & Co., for Respondent No. 6 - SRA.
- Ms. V. H. Kantharia & M. S. Chunawala, for UOI in WP. 2869/2015.

सत्यमेव जयते
CORAM : V. M. KANADE, &
M. S. SONAK, JJ.

DATE : AUGUST 1, 2016

PC.

1. Public Interest Litigation No. 46 of 2016, and In Person Application No. 42 of 2016 are de-tagged from this group of matters.
2. We find that though this Court has appointed a

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Committee by an order dated 30.10.2015, and a further direction was given on 21.4.2016 to the Union of India, Civil Aviation Department to appoint expert from the International Civil Aviation Organisation (for short "ICAO") to be a member of the Committee. No progress has been made so far, even after lapse of more than one year from our last order. The Committee has not started functioning since expert ICAO member is not available, we therefore, stay the further proceeding before the Committee headed by Shri Justice S. R. Sathe (Retd.), and now, we ourselves will look into the matter.

3. Mr. Rajiv Chavan, learned senior counsel appearing on behalf of the Union of India submits that Airport Authority of India (AAI) has addressed a letter to the Union of India informing the concerned authority that ICAO expert is not available since Dr. Rao, whose name was included in the Committee is out of India. This particular statement is inconceivable. It is difficult to believe that only Dr. Arun Rao is the only expert member available with the ICAO. We, therefore direct the Under Secretary from the Ministry of Civil Aviation to make that statement on oath, so that further orders may be passed by this Court.

4. The Petitioner has raised a serious issue concerning safety of air space near and around the airport. It is his contention that there is an encroachment on air space by number of builders, as a result, height restrictions have not been followed, and there are several buildings which have come up around the airport, which are above the restricted heights. The Petitioner, therefore, to prepare a short synopsis and brief submissions of not more than 4-5 pages and submit within one week. All the concerned parties are at liberty to take out copies of the said written submissions. The Petitioner, though he is an advocate, is appearing in person and espousing the public cause. The Maharashtra State Legal Services Authority to pay a sum of Rs.10,000/- to the Petitioner within two weeks, in order to enable him to bear the expenses of this litigation.

5. The issue raised in this Court is of public importance.
S. O. to 10th August, 2016 (to be shown on the supplementary board).

Sd/-
[M. S. SONAK, J.]

Vinayak Halemath

Sd/-
[V. M. KANADE, J.]

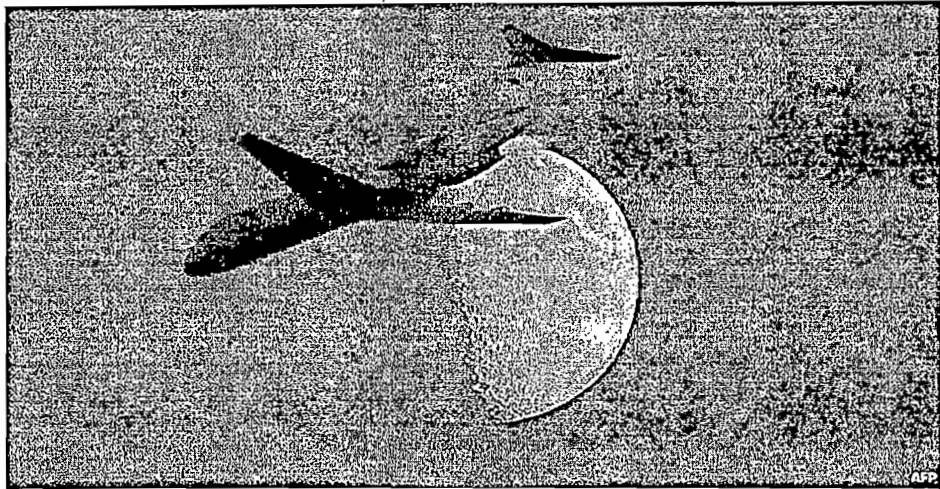
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ANNEAURE - P-2

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Pilot fatigue 'one of the biggest threats to air safety'

By Keith Moore BBC News
11 October 2012

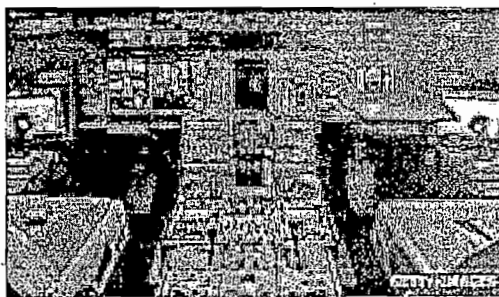


It was a cold winter night on 12 February 2009 when Continental flight 3407 took off from Liberty International Airport in Newark, New Jersey, on what should have been a fairly routine flight.

But five miles north-west of its intended destination in Buffalo, New York, the plane stalled before plunging into a house below, killing both the pilots, as well as two flight attendants, all 45 passengers and a man on the ground.

The pilots had failed to properly respond to cockpit warnings that the plane was moving too slowly through the air, with captain Martin Renslow raising the plane's nose, slowing it even further.

Pilot's perspective



A pilot working for a medium-haul airline gives his view:

"I've been a pilot for seven years. Fatigue is the biggest problem you face in daily operations, especially on early duties. You're getting up at 03:30 or 04:00 to go to work and you have 12-hour days.

"Airlines tend to look at duty limitations as targets so they will push crews to the absolute legal limit to increase productivity.

"You miss things. Normally there's two people in the cockpit so you should be able to back each other up, but if you're both very tired, mistakes could happen quite often.

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"I used to do night flights to Egypt and those were the worst. You would unload the passengers, put fuel in the airplane, load new passengers and come back. On the way back it's horrible, you try and stay awake and your eyes are going, your head is going and you look at the guy next to you and he is also having the same problem.

"Some people have coffee after coffee just to stay awake, but that's not very healthy either."

The accident report said that ahead of the flight, both pilots had long commutes and slept in the crew lounge, instead of a hotel. Tiredness was cited as one of the factors in the crew's failure to respond quickly and appropriately to the aircraft's loss of speed. Pilot fatigue has long been a concern, and the European Aviation Safety Agency (EASA) recently proposed new EU-wide rules setting limits on the duration that pilots could fly and be on duty.

If signed into law, it would be the first time that airlines across the continent have had one set of shared rules to ensure passenger safety is not compromised by tired pilots.

But pilot unions and the House of Commons Transport Committee argue that the proposals do not go far enough and could put passengers in danger.

Aviation accidents are still extremely rare, but when they have occurred, figures show that 80% are a result of human error, with pilot fatigue accounting for 15-20% of human error in fatal accidents.

Fatigue leads to slower reaction times and impaired concentration and decision making. There's also the danger of falling asleep.

A survey by the British Airline Pilots' Association (Balpa) of 500 of its members showed 43% had involuntarily fallen asleep in the cockpit, and of those, 31% said that when they woke up the other pilot was also asleep.

'Like being drunk'

Prof Torbjorn Akerstedt, a sleep expert based at Karolinska University in Sweden, said that most people are able to stay alert for 16 hours during the daytime, but that reduces at night.

It has been well established scientifically, Mr Akerstedt said, that the impairments a pilot experiences landing a plane at 05:00 in the morning are the equivalent of having a blood alcohol level of 0.08%, which is the same as the UK's drink-driving limit and over the legal limit in many other countries.

David Learmount of Flight Global believes that "allowing pilots to get dangerously fatigued is like legalising pilots flying when they are drunk".

The importance of sleep



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- Lack of sleep has serious effects on the brain's ability to function
- The part of the brain that controls language, memory, and sense of time is severely affected
- Sleep-deprived individuals often have difficulty in responding to rapidly changing situations and making rational judgements

How lack of sleep affects health

Just last year, 16 passengers on an Air Canada flight were injured as a result of pilot fatigue. The co-pilot woke disorientated from a nap and, believing that the plane was going to collide with another aircraft, put the jet into a dive, sending passengers sprawling in the cabin.

What the pilot thought was another plane was actually the planet Venus.

The UK's aviation regulator, the Civil Aviation Authority, has supported EASA's recommendations, saying passenger safety will not be compromised. If approved, they are expected to be fully implemented by 2015.

But critics, including Balpa and the European Cockpit Association, say there is a possibility that on rare occasions, pilots who have been on standby could potentially be landing a plane after being awake for 22 hours.

That was disputed by EASA's head of flight standards, Jean Marc Cluzeau. He said that pilots on standby can still sleep and rest, so would not be working until they are called to fly as cover for a fellow pilot.

Another complaint from the unions is that the new rules state that pilots can fly for up to 11 hours overnight, which contradicts scientific research showing that 10 hours should be the maximum.

Father's plea

Mr Akerstedt was one of the scientists consulted on the proposals but he told the BBC that he felt his advice had been ignored by EASA.

The issue has always been contentious, with airlines trying to turn a profit and pilot unions making sure that their members are not being pushed beyond their limits.

Mr Learmount said most of the new rules improve current legislation, but one or two could potentially be abused by unscrupulous airlines to make pilots fly whilst dangerously fatigued.

In the wake of the Continental flight 3407's crash, US regulators lowered flight time limitations considerably.

The father of one of the victims of Continental 3407, Scott Maurer, recently wrote to transport secretary Patrick McLoughlin urging him to reject EASA's proposals.

"What value do you place on your loved ones?" Mr Maurer's letter said.

"How do you value the loss that would occur if a commercial aircraft crashed into a crowded arena because of fatigued pilots? Before our tragedy I would likely have said: 'What are the chances that will happen? One in 20,000,000?'

"Sadly, I now know that fatigued pilots increase those odds exponentially."

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ANNEXURE

P-3

31



GOVERNMENT OF INDIA
OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION
TECHNICAL CENTRE, OPP SAFDURJUNG AIRPORT, NEW DELHI

CIVIL AVIATION REQUIREMENTS
SECTION 7 – FLIGHT CREW STANDARDS
SERIES 'J', PART III
ISSUE II, 11TH AUGUST 2011 **EFFECTIVE: FORTHWITH**

File No. DG/FDTL/21/2009

Subject: Flight and Duty Time Limitations and Rest Requirements of flight crew engaged in scheduled/non-scheduled air transport operations and general aviation aeroplanes operations.

1. INTRODUCTION

ICAO Annex 6 Part I lays down the standards and recommended practices for management of fatigue for flight and cabin crew members. These standards require State of the Operator to establish prescriptive regulations for the management of fatigue which include flight time, flight duty periods, duty period and rest period limitations. The Operator, for the purpose of managing its fatigue related safety risks, is required to establish flight time, flight duty periods, duty period and rest period limitations that are within the prescriptive fatigue management regulations established by the State.

This Civil Aviation Requirement (CAR) is issued under the provisions of Rule 42A and Rule 133A of the Aircraft Rules, 1937 and lays down the prescriptive fatigue management regulations in respect of flight crew members engaged in commercial and general aviation flying. The CAR also lays down the responsibility of the Operator for the purpose of management of its fatigue-related safety risks.

The requirements contained in the CAR supersede requirements contained in AIC 28 of 1992 with respect to operators of and flight crew engaged in scheduled/non-scheduled air transport operations and general aviation aeroplanes operations. However, the requirements of the AIC would continue to apply for 'aerial operations' unless amended/ superseded.

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2. APPLICABILITY

- 2.1 The Flight and Duty Time Limitations and Rest Requirements contained in this CAR are applicable to operators of and flight crew engaged in scheduled/non-scheduled air transport and general aviation aeroplane operations.
- 2.2 No Operator/ flight crew engaged in such operations may operate beyond 15th February 2012 unless the requirements contained in this CAR are complied with.

3. DEFINITIONS

- 3.1 **Augmented flight crew.** A flight crew that comprises more than the minimum number required to operate the aeroplane and in which each flight crew member can leave his or her assigned post and be replaced by another flight crew member, who shall hold qualifications which are equal to or superior to those held by the crew member who is to be replaced for the purpose of in-flight rest.
- 3.2 **Duty.** Any task that flight crew members are required by the operator to perform, including, for example, flight duty, administrative work, training, positioning and standby when it is likely to induce fatigue.
- 3.3 **Duty period.** A period which starts when a flight crew member is required by an operator to report for or to commence a duty and ends when that person is free from all duties.
- 3.4 **Fatigue.** A physiological state of reduced mental or physical performance capability resulting from sleep loss or extended wakefulness, circadian phase, or workload (mental and/or physical activity) that can impair a crew member's alertness and ability to safely operate an aircraft or perform safety related duties.
- 3.5 **Flight Duty Period.** A period which commences when a flight crew member is required to report for duty that includes a flight or a series of flights and which finishes when the aeroplane finally comes to rest and the engines are shut down at the end of the last flight on which he/she is a crew member.
- 3.6 **Flight time.** The total time from the moment an aeroplane first moves for the purpose of taking off until the moment it finally comes to rest at the end of the flight.

Note.—“Flight time” as here defined is synonymous with the term “block to block” time or “chock to chock” time in general usage which is measured from the time an aeroplane first moves for the purpose of taking off until it finally stops at the end of the flight.

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- 3.7 **Home base.** The location nominated by the operator to the crew member from where the crew member normally starts and ends a duty period or a series of duty periods.
- 3.8 **Local night.** A period of eight hours falling between 22.00 and 08.00 local time.
- 3.9 **Neighbouring Countries.** Countries whose standard times falls within a band of 3 hours ($\pm 1:30$ hours on either side of India) i.e. countries covered in the standard time zone band of UTC+4 to UTC+7.
- 3.10 **Positioning.** The transferring of a non-operating crew member from place to place as a passenger at the behest of the operator.

Note.— "Positioning" as here defined is synonymous with the term "Deadheading".
- 3.11 **Reporting time.** The time at which flight crew members are required by an operator to report for duty.
- 3.12 **Rest Period.** An uninterrupted and defined period of time during which a crew member is free from all duties and airport standby.
- 3.13 **Split Duty (Break)** means a period free of all duties, which counts as duty, being less than a rest period.
- 3.14 **Standby.** It is a defined period of time during which a flight crew member is required by the operator to be available to receive an assignment for a specific duty without an intervening rest period. However, it shall not include any time during which an operator requires a crew member to be contactable for the purpose of giving notification of a duty which is due to start 10 hours or more ahead.
- 3.15 **Ultra Long Range (ULR) Operations.** Continuous non-stop flights between the specific city pairs having a flight time of over 16 hours and duty periods between 18 and 22 hours.
- 3.16 **Unforeseen operational circumstance.** An unplanned event, such as unforecast weather, equipment malfunction, or air traffic delay that is beyond the control of the operator.
- 3.17 **Window of Circadian Low (WOCL)** is best estimated by the hours between 0200 and 0600 for individuals adapted to a usual day-wake/ night sleep schedule. This estimate of the window is calculated from scientific data on the circadian low of performance, alertness, subject report (i.e., peak fatigue), and body temperature. For flight duty periods that cross 3 or fewer time zones, the window of circadian low is estimated to be 0200 to 0600 home-base/ domicile

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time. For flight duty periods beyond 3 or more time zones, the window of circadian low is estimated to be 0200 to 0600 home-base/ domicile time for the first 48 hours only. After a crew member remains more than 48 hours away from home-base/ domicile time, the window of circadian low is estimated to be 0200 to 0600 referred to local time at the point of departure.

4. OPERATOR'S RESPONSIBILITY

- 4.1 Every operator shall establish a scheme for complying with the limitations for flight time, flight duty periods, duty periods and rest periods specified in this CAR in respect of flight crew members.
- 4.2 DGCA may approve, in exceptional circumstances, variations to these regulations on the basis of a risk assessment provided by the operator. Approved variations shall provide a level of safety equivalent to, or better than, that achieved through the prescriptive fatigue management regulations specified in this CAR.
- 4.3 The scheme along with any variations shall be included in the operations manual and submitted to the Director-General for approval.
- 4.4 The operator shall not require a flight crew member to operate an aeroplane if it is known or suspected that the flight crew member is fatigued to the extent that the safety of flight may be adversely affected.
- 4.5 No certificate holder may schedule any flight crewmember and no flight crewmember may accept an assignment, which shall exceed the prescribed limitations.
- 4.6 Operators shall ensure that persons concerned with the operations of aircraft are trained and educated regarding dangers of fatigue, the causes of sleepiness and importance of sleep and proper sleep habits.

5. FLIGHT CREW MEMBER'S RESPONSIBILITY

- 5.1 A flight crew member shall not operate an aeroplane when he or she knows that he or she is fatigued or feels unfit to the extent that the safety of flight may be adversely affected.
- 5.2 Flight crew members shall make best use of facilities and opportunities that are provided for rest and for the consumption of meals, and shall plan and use rest periods to ensure that they are fully rested.

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6. REQUIREMENTS FOR DOMESTIC AND NEIGHBOURING COUNTRIES OPERATIONS

6.1 Daily maximum flight time limitations during any 24 consecutive hours:

Crew Complement	Maximum Flight Time Limitation/ Max Number of Landings*
Two-Pilot Operations	8 hours/ up to 6 landings
	<i>For day operations</i> 9 Hours/up to 3 landings
	<i>For night operations</i> 9 Hours/up to 2 landings

* Maximum Number of Landings is further dependent on Flight Duty Period.

6.2 Cumulative flight time limitations

Cumulative Period	Flight Time Limitation (Hours)
In 7 consecutive days	35
In 30 consecutive days	125
In 365 consecutive days	1000

6.3 Maximum Daily Flight Duty Period – Two Pilot Operations

6.3.1 Maximum Daily Flight Duty period for two pilot operation shall be as per the following table:

Maximum Daily Flight Duty Period (FDP) Limitation**	Maximum Number of landings	Maximum Flight Time Limitation
12.5 hours	2 for night operations	9 hours
	3 for day operations	
12 hours	4	8 hours
11.5 hours	5	
11 hours	6	

** Reduction of Flight duty period due to operation in WOCL

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6.3.2 When the FDP starts in the WOCL, the maximum FDP stated in above table shall be reduced by 100 % of its encroachment up to a maximum of two hours. When the FDP ends in or fully encompasses the WOCL, the maximum FDP stated in above points shall be reduced by 50 % of its encroachment.

7. REQUIREMENTS FOR INTERNATIONAL OPERATIONS

7.1 Daily maximum flight time limitations for international operations during any 24 consecutive hours:

Crew Complement	Maximum Flight Time Limitation/ Max Number of Landings**
Two-Pilot Operations	10 hours/ up to 1 landings
	<i>For day operations</i> 9 Hours/up to 3 landings
	<i>For night operations</i> 9 Hours/up to 2 landings
Three-Pilot Operations	12 Hours/1 landing
Four-Pilot Operation	16 Hours/1 landing
Four-Pilot ULR Operations*	More than 16 hours

* ULR Operations needs specific approvals of DGCA on City Pairs and case-to-case basis

** Maximum Number of Landings are further dependent on Flight Duty Period

7.2 Cumulative flight time limitations

Cumulative Period	Flight Time Limitation (Hours)
In 7 consecutive days (only for two pilot operations)	35
In 30 consecutive days	125
In 365 consecutive days	1000

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7.3 Maximum Daily Flight Duty Period – Two Pilot Operations

7.3.1 Maximum Daily Flight Duty period for two pilot operation shall be as per the following table:

Maximum Daily Flight Duty Period (FDP) Limitation**	Maximum Number of landings	Maximum Flight Time Limitation
13 hours	1	10 hours
12.5 hours	2 for night operations	9 hours
	3 for day operations	

**** Reduction of Flight duty period due to operation in WOCL**

7.3.2 When the FDP starts in the WOCL, the maximum FDP stated in above points shall be reduced by 100 % of its encroachment up to a maximum of two hours. When the FDP ends in or fully encompasses the WOCL, the maximum FDP stated in above points shall be reduced by 50 % of its encroachment.

7.4 Augmented Crew

7.4.1 The maximum flight duty period may be extended in accordance with the following table in case of the flight crew is augmented

Rest facility available	Maximum extension of the FDP	
	Augmented crew (3 Pilots)	Double crew (4 Pilots)
Rest seat	2H	4H
Bunk	4H	6H

- (a) In flight, rest of less than 3 hours doesn't allow for the extension of the FDP.
- (b) The applicable Flight Duty Period may be increased up to a maximum of 16 hours in case of Rest Seat and up to a maximum of 18 hours in case of Bunk. In case of double crew, rest facilities shall be available for both pilots not on active duty.
- (c) In case of augmented/double flight crew, the division of duty and rest between the flight crew members being relieved will be kept in balance, which would be spelt out in detail in the Scheme of the operator.

Note: Scheme shall specify that Flight time will be counted only when the crew is 'on controls'.

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- (d) Rest Seat will be at least a 'Business Class' seat reclining to at least 40° back angle to the vertical, outside the cockpit and separated from passengers by a dark curtain.
- (e) Crew shall be allowed to return to controls only after 30 minutes of waking after bunk/seat rest, which may be part of the rest of 3 hours.

8. GENERAL REQUIREMENTS

8.1 An operator shall follow the requirements of this CAR based on type of flight being operated i.e. if all sectors of a flight are within the neighbouring countries, then requirements for 'domestic operations' shall be followed and in case even one sector of the flight falls in international operation then for the full/ entire flight requirements of 'international Operations' shall be followed.

8.2 Duty Period:

8.2.1 No operator shall assign and no flight crew member shall accept any duty to exceed:

- (a) 190 duty hours in any 28 consecutive days, spread evenly as practicable through out this period;
- (b) 100 duty hours in 14 consecutive days; and
- (c) 60 duty hours in any seven consecutive days.

8.3 Rest:

8.3.1 Minimum Rest (Before a flight)

8.3.1.1 The minimum rest, which must be provided before undertaking a flight duty period, shall be:

At least as long as the preceding duty period,

OR

- (a) 12 hours,
 - (b) 14 hours on crossing 3 time zones, or
 - (c) 36 hours on crossing 8 time zones
- whichever is the greater;

8.3.1.2 If the preceding duty period, which includes any time spent on positioning, exceeds 18 hours, then the ensuing rest period shall include a local night. 8.3.1.3 Period of transportation to and from an airport shall neither be counted towards duty time nor rest period. The operator shall include in the 'Scheme' the optimum time of transportation after taking into account various factors and on ensuring that the rest period does not get reduced below the minimum rest requirements.

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8.3.2 Rest after return to base

8.3.2.1 An operator shall ensure that effects on crew members of time zone differences will be compensated by additional rest as specified below.

8.3.2.2 Minimum rest including local nights shall be given, according to the table below, when coming back to home base, to any crew member who has been away from the home base in such a way that the WOCL had to be modified.

Time zone difference	Hours of rest	Local nights
More than 3 to 7	36	2
Beyond 7	72	3

"Time zone difference" in this table is the time zone difference between the starting and finishing points of the initial duty."

8.3.3 Weekly Rest

An operator shall ensure that the minimum rest is increased periodically to a weekly rest period, being a 36-hour period including two local nights, such that there shall never be more than 168 hours between the end of one weekly rest period and the start of the next.

8.4 Reporting time:

8.4.1 Crew report times shall be specified by the operator realistically, which reflect the time required to complete pre-flight duties, both safety and service-related, but shall not be less than 45 minutes, and

8.4.2 A standard allowance of 30 minutes for major operators and 15 minutes for others shall be added at the end of flight time to allow for the completion of checks and records.

8.4.3 For record purposes, the pre-flight report time shall count both as duty and as flight duty, and the post-flight allowance shall count as duty.

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9. Split Duty (Break)

Consecutive hours of break	Maximum Extension of the FDP
Less than 3H	NIL
Between 3H and 10H	A period equal to half the consecutive hours break taken
>10H	No extension permitted

- (a) Post-flight and pre-flight duties will not be counted as part of rest
- (b) If the break is more than 6 consecutive hours or encroach on the WOCL, then operator will provide suitable accommodation
- (c) Parts of the FDP before and after the break shall not exceed ten hours.

10. STANDBY

10.1 General

10.1.1 Operators shall include 'Standby' as part of their regular rosters and concerned crew shall be kept notified.

10.1.2 In case of exigencies when 'Standby' duty may go beyond the roster, Operator shall ensure that concerned crew is notified in advance.

10.2 Standby Period

10.2.1 Standby period shall not extend beyond 12 hours. However, a maximum standby at airport (with or without sleeping quarters) shall not exceed 8 hours.

10.2.2 If the standby period is at the airport and

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- (a) Standby culminates into a flight duty then the total period (i.e. 100%) shall be counted towards the flight duty period and also towards cumulative duty period
- (b) Standby does not culminate into a flight duty then the total period (i.e. 100%) shall be counted towards cumulative duty period

10.2.3 If the standby period is at home or in a hotel and culminates into duty

- (a) Within first 6 hours then no part of standby shall be considered as part of flight duty period or cumulative duty period
- (b) At 6 hours or later then flight duty period shall be reduced by 50% of the standby time.

10.2.4 If standby period is at home or in a hotel does not culminate into a duty then, 25% of its time shall be considered under cumulative duty.

10.3 Rest period after Standby:

10.3.1 When any period of standby finishes, during which a call-out has not occurred, at least 10 hours rest shall follow prior to the next duty period.

10.3.2 When standby culminates in to a duty, then the rest period shall be decided based on total period of duty i.e. the duty plus the percentage of standby counted for duty.

11. POSITIONING

11.1 All the time spent on positioning on the behest of the operator shall be counted as duty.

11.2 Positioning time shall be part of a flight duty period when it immediately precedes (i.e., without an intervening rest period) a flight duty period in which that person participates as a flight crew member.

11.3 Positioning after operating a flight duty period without an intervening rest period shall be counted for determining rest period.

11.4 Positioning shall not count as a landing for purposes of determining 'Flight Duty Period'.

11.5 Positioning shall be counted as a landing if, after a positioning journey, the crew member spends less than a minimum rest period at suitable accommodation provided by the operator, and then extends FDP using 'Split Duty'.

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12. UNFORESEEN OPERATIONAL CIRCUMSTANCES

12.1 For an unplanned event, such as unforecast weather, equipment malfunction, or air traffic delay that is beyond the control of the operator 'Flight Time' and 'Flight Duty Period' may be extended as follows:

(a) Flight Time by maximum of 1½ hours and FDP by maximum of 3 hours subject to a cumulative limit of maximum of 3 hours and maximum of 6 hours respectively in 30 consecutive days.

(b) Subject to the maximum limit of extension of FDP i.e. 3 hours on individual event and 6 hrs on cumulative basis, extension shall be decided between PIC and 'Head of Operations' of operator.

(c) PIC in consultation with the other crew members and cabin crew will convey their willingness (or consent) to the 'Head of Operations' for operating the flight. The PIC will submit the report to Head of Operations who will file to DGCA along with his comments.

12.2 Whenever the flight duty period gets extended, the rest period shall be pro-rata increased by twice the amount of extended time of flight duty period.

13. CONSECUTIVE NIGHT OPERATIONS

13.1 No operator operating passenger flights shall deploy a flight crew nor a flight crew shall undertake any duty between period embracing 0000 to 0500 hours local time if during the previous day he/she performed flight duty between the period embracing 0000 to 0500 hours local time;

13.2 Cargo operations shall be permitted during period embracing 0000 to 0500 hours for two consecutive nights provided:

13.2.1 The minimum rest period before the start of such a series of duties is 24 hours.

13.2.2 The duty shall not exceed 8 hours, irrespective of the sectors flown.

13.2.3 At the finish of such a series of duties crew members shall have a minimum of 54 hours free from all duties.

13.2.4 There shall not be 4 such duties in any 7 consecutive days.

13.2.5 Crew members shall be free from all duties by 2100 hours local time before covering the block of consecutive night duties, such that they may take a rest period during a local night.

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14. RECORDS

- 14.1 To enable the operator to ascertain that the fatigue management system is functioning, as intended and as approved, records shall be kept for 18 months of the duties performed and rest periods provided so as to facilitate inspection by the operator's authorized personnel and surveillance/audit by DGCA officers.
- 14.2 The operator shall ensure that these records include for each flight crew member, at least:
- (a) the start, duration and end of each flight duty period;
 - (b) the start, duration and end of each duty period;
 - (c) rest periods; and
 - (d) flight time.
- 14.3 The operator shall also keep records of occasions when discretion was used by the PIC to extend the prescribed limits.
- 14.4 If discretion was used for similar reasons on more than 20 percent of occasions when a particular route or route pattern is flown, then the operator shall review and change the schedule or the crew scheduling arrangements so as to reduce the frequency at which such events occur.
- 14.5 In addition, DGCA may require submission of copies and analysis of records in the manner deemed fit.
- 14.6 Flight crew members shall maintain a personal record of their daily flight time, duty period, flight duty period and rest periods.
- 14.7 Above may be achieved through a foolproof, transparent, computerised system, for which there will be an online system with a link for DGCA to monitor. The operator shall evolve a system so that only designated officers of the operator and DGCA have access to the system. Further, the system shall have provision of 'audit trail' so that any change made in the data may be tracked down to its source.
- 14.8 The operator through the computerised system shall be able to ensure that flight crew member is well within the flight time, flight duty period, duty period and rest period requirements before permitting him to operate the flight.

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14.9 No operator shall keep such records only on paper. Any violation of this provision shall attract penalties as laid down in relevant law including action against persons.

14.10 Operator shall evolve a mechanism by which personal records maintained by individual pilot are reconciled with the operator's records from time to time.

15. ULTRA LONG FLIGHTS

15.1 Definitions:

(a) "Duty Flight Crew" means those members of the flight crew who are on duty in the cockpit.

(b) "In-flight Rest Period" means a period of time within a flying duty time, which is to give a crew member an opportunity to rest before commencing or recommencing duty as a duty flight crew.

(c) "Rostered Duty Assignment (RDA)" means a sequence of Flight Duty Periods, off-duty periods, standby duty periods, crew positioning and rest periods for which flight crew are rostered when assigned to operate a ULR flight.

15.2 Approval shall be given by DGCA for the operation of Ultra Long flights on case-to-case basis for specific city-pairs and the departure windows of the flights.

15.3 Operator shall submit a specific scheme in accordance with the provisions laid down in the following paragraph to DGCA for obtaining 'City Pair Specific' approval for ultra long haul operations.

15.4 DGCA may validate such flights for the crew alertness if the operator uses prescriptive regulations. It will, however, be preferable that the Operator adopts FRMS for continuously monitoring of the crew alertness.

15.5 Designated flight crew rest facilities shall be provided on board aircraft. These rest facilities shall comprise not less than two independent rest areas with horizontal bunks and shall provide an environment that is conducive to rest/sleep. The rest facilities shall be subject to the prior approval of the DGCA.

15.6 Each ULR flight is to be operated by no less than four (4) pilots of whom two (2) must be pilot-in-command qualified for the route. The duty flight crew shall comprise at least two pilots of which one crewmember is pilot-in-command qualified.

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15.7 The Operations Manual shall contain specific instructions to ensure that the ULR flight meets the following requirements:

15.7.1 ULR Pre-flight and In-flight Rest Planning

- (a) A scheme shall be established to provide guidance to the flight crew on the expected pre-flight preparations and in-flight rest to be taken. Flight crew are to be appropriately rested for the ULR flight.
- (b) The in-flight rest plan shall provide for at least two (2) rest periods, one of which shall not be less than four (4) hours.

15.7.2 ULR Pre-flight Rostering Requirements

- (a) The flight crew shall be acclimatised at base before undertaking a ULR RDA. Immediately prior to commencing the ULR RDA, the crew shall be rostered for a rest period of no less than 48 hours, which shall include two (2) local nights, free from flying duties.

15.7.3 ULR Flight Rest Period Away from Base

- (a) In the ULR RDA, the scheduled period free of flying duties away from base shall be at least 48 hours, with at least two (2) local nights.

15.7.4 Post ULR RDA Rest At Base Before Embarking on the Next Flight

- (a) The ULR flight crew shall be provided with four (4) consecutive local nights of rest free of duty on completion of the ULR RDA, before the crew may be rostered for another ULR flight or other flights.



(E. K. Bharat Bhushan)
Director General of Civil Aviation

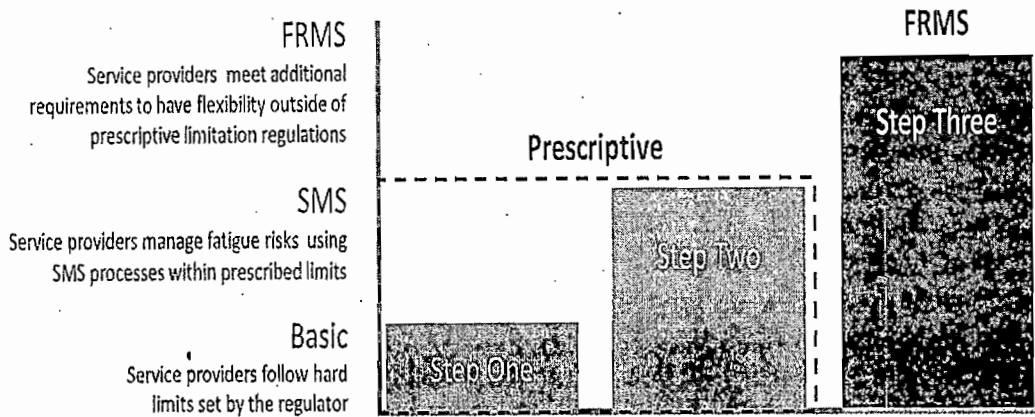
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Fatigue Management Approaches

Introduction

In general, ICAO Standards and Recommended Practices (SARPs) in various Annexes support two distinct methods for managing fatigue:

1. a prescriptive approach that requires the Service Provider to comply with duty time limits defined by the State, while managing fatigue hazards using the SMS processes that are in place for managing safety hazards in general ; and
2. a performance-based approach that requires the Service Provider to implement a Fatigue Risk Management System (FRMS) that is approved by the State.



These approaches share two important features

1. They must be based on **scientific principles, knowledge and operational experience**:

- Getting enough sleep (both quantity and quality) on a regular basis is essential for restoring the brain and body. The drive for sleep increases with time awake.
- Reducing the amount or the quality of sleep, even for a single night, decreases the ability to function and increases sleepiness the next day.
- The circadian body clock affects the timing and quality of sleep and produces daily highs and lows in performance on various tasks.
- Workload can contribute to an individual's level of fatigue. Low workload may unmask physiological sleepiness while high workload may exceed the capacity of a fatigued individual.
- Knowledge of the operational and organizational context, as well as understanding of the constraints and motivations of the workforce must be

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considered alongside the science when determining the safety risk that a fatigue-impaired individual represents in that context.

2. Fatigue management has to be a **shared responsibility** between the State, Service Providers and individuals:

- The **State** is responsible for providing a regulatory framework that enables fatigue management and ensuring that the Service Provider is managing fatigue-related risks to achieve an acceptable level of safety performance.
- **Service Providers** are responsible for providing fatigue management education, implementing work schedules that enable individuals to perform their duties safely, and having processes for monitoring and managing fatigue hazards.
- **Individuals** are responsible for arriving fit for duty, including making appropriate use of non-work periods to obtain sleep, and for reporting fatigue hazards.

Prescriptive Approach

No "correct" limits, just informed boundaries
 - ICAO Standards do not identify the actual limits
 - Nor does science!
 - Identifying prescribed duty limits requires a risk assessment

Prescriptive limitation regulations identify maximum work periods and minimum non-work periods for specific groups of aviation professionals. The prescribed limits are essentially informed boundaries identified by the State, inside which the Service Provider must manage their fatigue-related risks as part of their existing safety management processes. With a prescriptive approach, fatigue is one of the possible hazards that the SMS should consider, but data-driven evidence related to fatigue is not specifically and actively collected unless a fatigue issue has been identified by the SMS.

More information can be found in the Guidance Material on the Resources page.

Performance-based Approach (FRMS)

FRMS is an opportunity for Service Providers to use advances in scientific knowledge to improve safety and gain operational flexibility at the same time.

The performance-based Fatigue Risk Management System (FRMS) approach represents an opportunity for Service Providers to use advances in scientific knowledge to improve safety, use resources more efficiently and increase

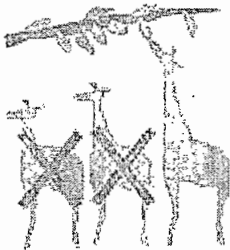
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operational flexibility. FRMS allows the Service Provider to move outside of the prescribed limits and is focused on managing the actual fatigue risk in the operations to which it applies (rather than addressing the predicted fatigue risk in general, which is the basis of prescriptive limits). FRMS has additional requirements to ensure a level of safety that is at least equivalent to that achieved by operating within the prescriptive limitations and considering fatigue as one of the risks to be managed using generic SMS processes. Where a service provider already has sufficiently mature SMS processes in place, it should not be necessary for them to develop entirely new processes to implement FRMS. Rather, the service provider can build upon the organization's existing SMS processes to address the added requirements of an FRMS.

Having an FRMS still requires having maximum duty times and minimum rest (or non-work periods), but these are proposed by the Service Provider, may differ from the prescribed limits and must be approved by the State. To get approval, the Service Provider must demonstrate to the regulator that it has appropriate processes and mitigations to achieve an acceptable level of risk.

Not every State should offer FRMS regulations

FRMS is not for everyone



The oversight of FRMS, as a performance-based approach, requires extra resources, and a well-trained State inspectorate. Prescriptive Fatigue Management regulations provide the baseline, in terms of safety equivalence, from which an FRMS is assessed. Therefore, before providing FRMS regulations, the State needs to be confident that it has robust, scientifically-based prescriptive limitation regulations appropriate to the context in which they are to be used and that their inspectors can adequately oversee the prescriptive limitation regulations, including the use of SMS processes to manage any identified fatigue risks.

While FRMS can offer considerable safety and efficiency benefits, potential safety benefits may be reversed if the State does not have the resources to develop the supporting regulatory processes and provide the necessary oversight.

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Not every service provider should implement an FRMS

Where their State has FRMS regulations, Service Providers can decide to manage none, some, or all of their operations under an FRMS. While FRMS offers the potential for considerable operational flexibility benefits, FRMS shouldn't be considered a "right"; it's more a "privilege" for those who have demonstrated that they can use mature SMS processes to manage fatigue and who are prepared to go even further to develop an **approved** FRMS.

The cost and complexity of implementing an **approved** FRMS may not be justified for operations that remain inside prescribed limits and where fatigue-related risk is low. However, this does not preclude a Service Provider from using FRMS processes to manage their fatigue risks within the prescribed limits.

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THE TIMES OF INDIA

Pilots sleep as flight attendant turns off autopilot on Bangkok-Delhi flight

Bipin Kumar Singh | Mumbai Mirror | May 3, 2013, 01.57 PM IST



Kanika Kala who switched off the auto-pilot.

MUMBAI: Two Air India pilots put the lives of 166 passengers on a Bangkok-Delhi flight in danger by taking a 40-minute break from the cockpit and getting two flight attendants to operate the plane in their absence. Their stunt almost ended in disaster after one of the flight attendants accidentally turned off the auto-pilot, forcing the pilots to rush back to their seats.

The incident took place 33,000 feet in the air on Air India flight AI 133 (an Airbus 321) from Bangkok to Delhi on April 12, which took off from Bangkok on schedule, at 8.55 am.

Thirty minutes later, First Officer Ravindra Nath excused himself from the cockpit for a bathroom break and got flight attendant J Bhatt to occupy his seat in his absence. "According to the guidelines it is a standard procedure to ensure the presence of second person in the cockpit so that if the pilot is not able to operate the aircraft for some reason, the other crew member in the cockpit can immediately call for the other pilot. But what actually happened after this made a mockery of air safety," said a source in Air India, who did not wish to be named.

Minutes after his co-pilot left the cockpit, Captain B K Soni called another flight attendant, Kanika Kala, and asked her to take his seat. Captain Soni did not leave the cockpit immediately; instead, he spent a few minutes teaching the two flight attendants how to operate the aircraft.

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He left the cockpit after putting the plane on auto-pilot, leaving the flight attendants to operate the flight by themselves for the next 40 minutes while he and his co-pilot took a nap in business class.

Putting an aircraft on auto-pilot does not exempt pilots from remaining in the cockpit; their presence is required to monitor the flight's status and turn off auto-pilot if required. This was illustrated perfectly when Captain Soni and First Officer Nath were forced to rush back to their seats after one of the flight attendants accidentally switched off the auto-pilot, endangering the lives of everyone on board.

"A senior cabin crew member witnessed the entire drama unfold and brought the matter to the notice of the airline's management. All four were derostered and later suspended for this violation," added the Air India source.

Director General Arun Mishra of the Directorate General of Civil Aviation (DGCA), confirmed that all four employees had been suspended. "Following a safety violation, the airline has already suspended the people in question. We are conducting an inquiry into the matter," Mishra told Mumbai Mirror.

Captain Mohan Ranganathan, member of a government-appointed aviation safety panel, blamed the 'lackadaisical attitude' of the DGCA for the increase in air safety violations. "The DGCA should be held responsible for the increase in such cases as they have failed time and again to effectively enforce safety guidelines," said Ranganathan.

K Swaminathan, deputy general manager (corporate communications), Air India, did not comment on the incident, saying, "Your query has been referred to the concerned department for comment. We will revert to you on receiving their reply."

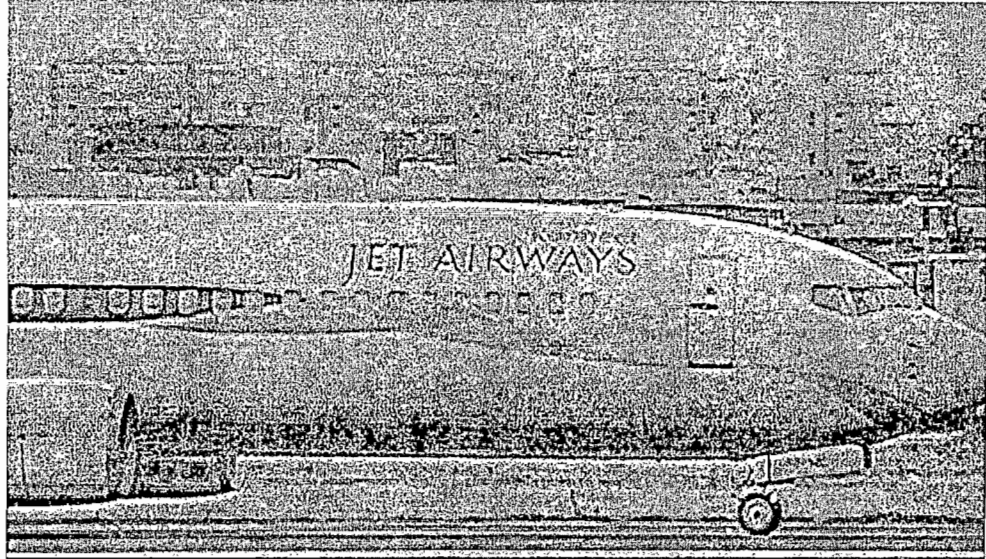
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Germany scrambles fighter jets as Jet Airways flight goes off radar

Two Eurofighter Typhoons belonging to the German Air Force were sent to intercept the flight after all efforts to connect with flight had failed.

By: [Express Web Desk](#) | New Delhi | Updated: February 20, 2017 9:21 am

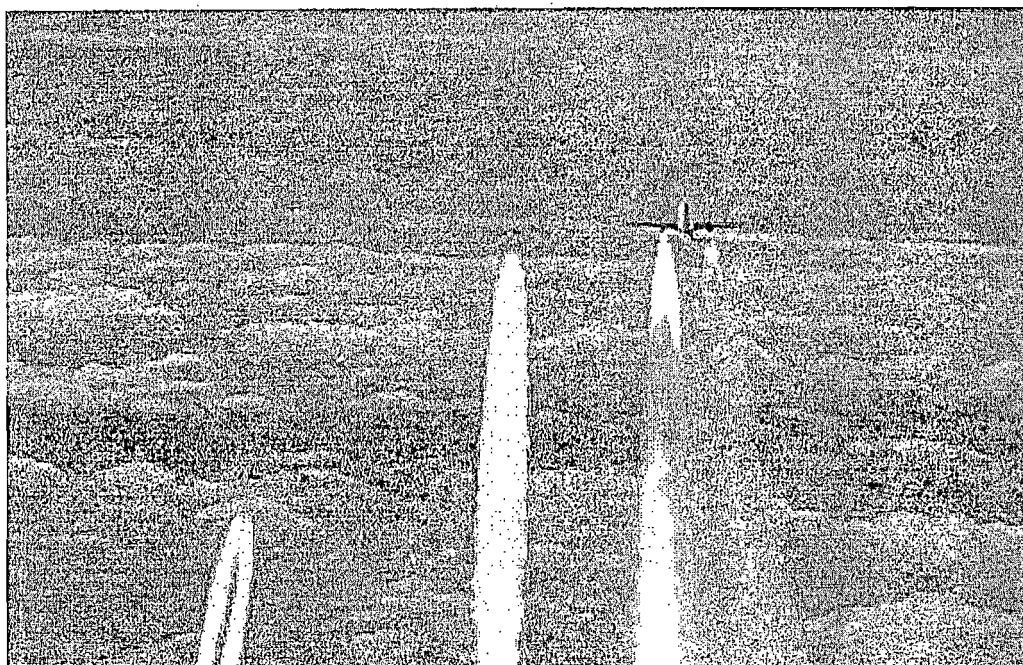


By the time the fighter jets took off, the contact had been restored, according to officials.

German authorities scrambled fighter jets after a Jet Airways Mumbai-London flight went off the radar for a brief period over Cologne last week. The flight, 9A-118, had 330 passengers and 15 crew on board. The German authorities apparently feared the plane had been hijacked after it lost contact with air traffic control.

“Contact between Jet Airways flight 9W 118, from Mumbai to London’s Heathrow Airport and the local ATC, was briefly lost while flying over German airspace. Communication was safely restored within a few minutes. As a precaution, the German Air Force deployed its aircraft to ensure the safety of the flight and its guests. The flight with 330 guests and 15 crew subsequently landed at London,” a statement issued by Jet Airways said.

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Watch the Video here:

Two Eurofighter Typhoons belonging to the German Air Force were sent to intercept the flight after all efforts to connect with flight had failed. However, by the time the fighter jets took off, the contact had been restored, according to officials. The airlines grounded the cockpit crew after the incident as they seemingly tuned into an incorrect radio frequency that could have broken off their contact with the ATC.

Pilot of a European airlines flight flying 2000 feet above the Jet Airways flight reportedly captured the incident in a video that indicated that the Jet airways flight was without ATC contact for 15 minutes. The contact reportedly got lost when when the ATC was being handed over from Bratislava to Prague. The incident has been reported to the civil aviation regulator, the Directorate General of Civil Aviation (DGCA).

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ANNEAURE - P-7

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After Jet Airways, London-bound Air India flight loses contact with ATC over Hungary's airspace

By Express News Service | Published: 10th March 2017 08:07 PM |
Last Updated: 10th March 2017 08:07 PM | A+ A A- |

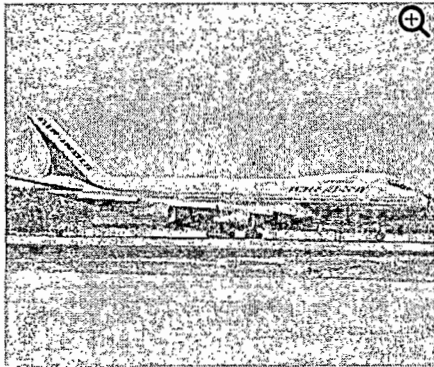


Image used for representational purpose.

NEW DELHI: Air India flight bound for London from Ahmedabad on Friday lost contact with the Air Traffic Control (ATC) while flying over Hungary's airspace following which it was escorted by fighter jets.

German and Belgian fighter jets were scrambled to escort an Air India flight into Heathrow airport at London. The flight lost radio contact which sparked hijack fears.

Air India spokesperson said the plane, with 231 passengers and 18 crew members

onboard lost contact with the ATC due to frequency fluctuation.

According to the spokesperson the aircraft took off from the Chhatrapati Shivaji International Airport in Mumbai at 0700 hours and landed safely at London's Heathrow Airport at 11.05 hours.

By the time the plane entered British skies the fault was rectified and it did not require the

Royal Air Force (RAF) of Britain to escort the AI plane.

A similar incident was reported on February 16 last month when Jet Airways, Mumbai- London flight had a communication failure on board while flying over the German airspace which forced German authorities to scramble fighter jets fearing a hijack. The plane was carrying 330 passengers and 15 crew members.

The plane has communication failure with ATC for a brief period while flying over Cologne, Germany. However, the communication was safely restored within minutes and the flight landed at its destination without any hitch.

Related Article

- > Jet Airways flight loses radio contact, makes Germany scramble combat jets
- > Govt probing Jet Airways tail strike incident at Dhaka airport

*True copy
y/sheng*

ANNEXURE - P-8

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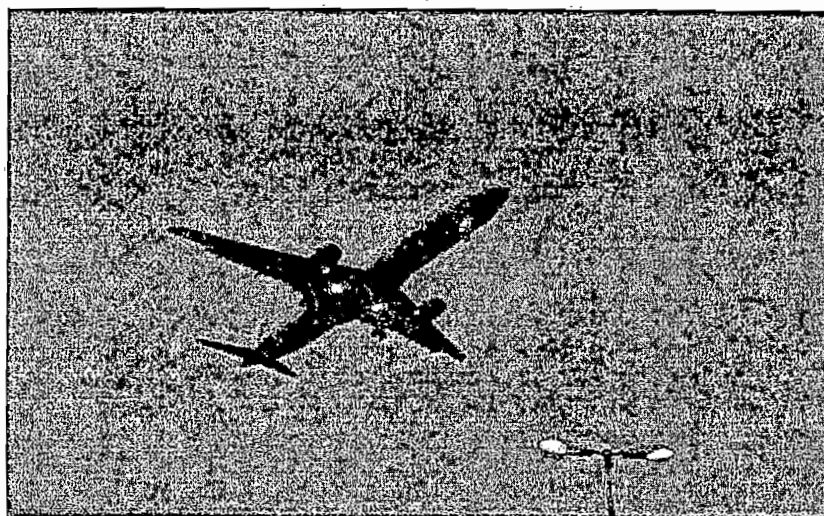
THE TIMES OF INDIA

Contact cockpit every 20 minutes when one pilot sleeping, DGCA tells cabin crew

Saurabh Sinha | TNN | Updated: Mar 17, 2017, 20:29 IST

HIGHLIGHTS

- Before going into controlled rest, the cockpit crew will inform the cabin crew in charge
- After the first 20 minutes of controlled rest, the non-resting pilot will establish contact with the CCIC
- In case no contact is established, the CCIC will contact the cabin crew



Reuters file photo used for representation

NEW DELHI: The Directorate General of Civil Aviation (DGCA) on Friday issued guidelines to prevent recurrence of EU nations scrambling fighter jets for incommunicado Indian aircraft twice in last two months and to resolve the confusion caused by similar flight numbers in the Indian skies.

Germany and Hungary had scrambled jets after a Jet Airways and then Air Indiplane, when its pilots did not respond to repeated air traffic control (ATC) calls. These scares were believed to have been caused by one pilot taking controlled rest, or sleeping on long flights as allowed, and the awake pilot keeping his headset volume very low.

"Before going into controlled rest, the cockpit crew will inform the cabin crew in charge (CCIC). After the first 20 minutes of controlled rest, the non-resting pilot

T-C
M/S

will establish contact with the CCIC. In case no contact is established, the CCIC will contact the cabin crew," said the DGCA circular issued after its joint DG and head of safety Lalit Gupta met airline executives on Friday. This process has to be repeated after 20 minutes.

Senior pilots, however, say the regulator should make three pilots mandatory on flights with flying time of over eight hours, like India-Europe/Australia. The idea: To have one or two fully conscious pilots at all times in the cockpit. However, given the pilot shortage faced by airlines, this move is yet to be adopted by Indian carriers.

TRUE COPY
y/shay

ANNEXURE P. 9



ONLINE PARTNER MoneyToday

Print Close

10 Jet Airways pilots grounded for quoting incorrect designation of DGCA official

PTI June 6, 2017

As many as 10 pilots of the Jet Airways have been kept out of flying duties, and their mistake -- quoting incorrectly the designation of a senior DGCA official in a communique.

A communication, sent to the aviation watchdog opposing the proposal to increase the notice period for pilots to one year, in which the Directorate General of Civil Aviation (DGCA) official's designation was written incorrectly, seem to be have backfired with an 'arbitrary' regulatory action against them, sources said.

The airline's domestic pilots body- the National Aviator's Guild (NAG) - termed the move as "threatening" and said it will, along with other pilots association, approach the Prime Minister's Office to seek the official's removal.

A response to a query sent to the Jet Airways on the issue was awaited.

The response of the official is not only "threatening" in nature, but also "shows how one individual can hold all the airlines to ransom for an error as minuscule as mentioning his designation incorrectly," the NAG said in a statement.

The Directorate General of Civil Aviation (DGCA) has recently proposed a notice period of one year for pilots and six months for co-pilots before leaving the services of their current company.

The DGCA and the officer concerned invited comments on the said draft and a few pilots responded. However, in the response, the DGCA official's designation was inadvertently written incorrectly.

The DGCA official has also directed the airline to check the "mental alertness of these pilots" since "they could not even quote a designation properly", sources said.

The airline has asked the 10 pilots to report at the headquarters today following the developments, the sources said, adding the DGCA has also directed the aviators to appear before it tomorrow.

"The DGCA official has ordered, albeit illegally, to de- roster more than 10 commanders' at extremely short notice allegedly to ascertain their mental capabilities," the NAG said.

"We, the pilots of National Aviators Guild, ICPA, IPG (the pilots associations of Air India) in conjunction with the Airline Pilots Association of India, plan to approach the PMO with a petition for his removal from the office of the DGCA," the statement said.

The Guild also said it will be calling a meeting of all pilot bodies under the aegis of the Indian chapter of Air Line Pilots Association, International (ALPA) shortly to form a joint action group to pursue the matter legally and keep all international bodies like the ICAO informed of the proceedings.

True copy
y/sheng

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL MISC. NO. _____ OF 2017

IN

WRIT PETITION (CIVIL) NO. _____ OF 2017

IN THE MATTER OF-

Yeshwanth Shenoy

Petitioner

Versus

The Union of India & Anr.

Respondents

APPLICATION UNDER SECTION 151 OF THE CODE OF
CIVIL PROCEDURE FOR STAY OF ALL VARIATIONS
APPROVED BY THE RESPONDENT NO.2 UNDER THE
FDTL CAR.

MOST RESPECTFULLY SHOWETH:

1. That the present writ petition under Article 226 of the Constitution by way of Public Interest Litigation seeks to enforce Air Regulations.
2. The Petitioner states that there have been several incidents in Indian and international air space involving pilot fatigue wherein the lives of people have been put at risk.
3. India is a signatory to the Chicago Convention and follows the 'prescriptive approach' to manage Pilot Fatigue. However, under clause 4 of the FDTL CAR, the Respondent No.2, DGCA has approved several 'variations' in violation of their own Regulations.

4. While the FDTL car is based on the Prescriptive Method, the 'variations' approved by the DGCA is based on the Performance Based approach of Managing Pilot Fatigue to which India doesn't quality owing to lack of infrastructure and capabilities. No 'risk Assessment' has been made while approving these exceptions.
5. The Petitioner states that while India submits the FDTL CAR to the ICAO during Compliance Audit, it does not disclose the 'variations' approved as exceptions. This amounts to willful and deliberate fraud on the ICAO and the international community which relies on India's disclosure and ICAO safety Audits.
6. Any accident in the Indian or international air space involving injury or death of people will earth this deceptive practice during Accident Investigation. This would result in serious financial implications on the Government of India in addition to the serious loss of reputation that India will face globally for such acts.
7. The Petitioner states that the balance of convenience heavily tilts towards the Petitioner as non grant of relief could cause loss of life whereas relief if granted in favour of the Petitioner, no unreasonable loss will be caused to anyone. In the event of the relief this Hon'ble Court not being in favour of granting this

relief, this Hon'ble Court be pleased to take an undertaking from the Respondent No.2 that no accident or incident will be caused by the 'extended flight duty' of the Pilot. In the event such an undertaking is not given, this Hon'ble Court be pleased to grant interim relief as non grant could directly impact Human lives.

PRAYER

It is therefore respectfully prayed that this Hon'ble Court be pleased to:

- (A) Stay all variations and exceptions approved by the Respondent No.2 as being in violation of the FDTL CAR and being deceptive to the ICAO norms and to International Community.
- (B) Direct the Respondent No.2 that all air operators allow pilot duty as per the current FDTL CAR without any exception / variation from the date of order.
- (C) Pass any other and further order as this Hon'ble Court may deem fit, just and proper in the present facts and circumstances of the case.

Filed by:



Yeshwanth Shenoy,
Petitioner -in - person
"Priyadarshini",
Veekshnam Road,
Ernakulam -682018

Bar Council of Kerala : K/1011/2001

Mob.: 9967642195

E-mail: yshenoy@gmail.com

New Delhi,
Dated: 04.12.2017

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL MISC. NO. _____ OF 2017

IN

WRIT PETITION (CIVIL) NO. _____ OF 2017

IN THE MATTER OF-

Yeshwanth Shenoy

Petitioner

Versus

The Union of India & Ors.

Respondents

AFFIDAVIT

I, Yeshwanth Shenoy S/o Sh. V.L. Shenoy, aged about 38 years, Resident of "Priyadarshini", Veekshnam Road, Ernakulam-682018, Kerala, at present at New Delhi, do hereby solemnly affirm, state and declare as under:-



1. That I am petitioner in the above noted case and am fully conversant with the facts of the case and competent to file and swear the present affidavit.
2. That the accompanying application under Section 151 CPC for stay has been drafted by me, contents of the same are true and correct to my knowledge.

Yeshwanth Shenoy
Deponent

Self
I Identify the Deponent who has Signed in my Presence

04 DEC 2017

VERIFICATION:

Verified at New Delhi on this 4th day of December, 2017 that the contents of paras 1 & 2 of my affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.

Yeshwanth Shenoy
Deponent

04 DEC 2017

CERTIFIED THAT THE DEPENDENT
 Sh. Smt./Km. Yeshwanth Shenoy
 S/o W/o V.L. Shenoy
 do Self
 Identified by Shri/Smt. Self
 has solemnly affirmed before me at
 on Self at Sl. No. Self
 that the contents of the affidavit which
 I read & explained to him/her are
 correct to his/her knowledge

Self

Oath Commissioner

59A

IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO.

OF 2017

In the matter of Public Interest Litigation

Yeshwanth Shenoy

.....Petitioner

Versus

The Union of India & Others

.....Respondents

AN APPLICATION FROM EXEMPTION FROM FILING
CERTIFIED COPY OF THE ANNEXURES/ORDERS
ETC.UNDER SECTION 151 C.P.C.

To

The Hon'ble Chief Justice of High Court of Delhi and companion
Judges of the Hon'ble High Court of Delhi

The humble application of the petitioner
abovenamed.

MOST RESPECTFULLY SHOWETH:

1. That the accompanying Writ Petition is filed by the petitioner as a public interest litigation to ensure that aviation laws are complied with. There has been a blatant violation of Air Regulations because of which the life of people is put to danger by the very authorities entrusted with Aviation Safety. The Petitioner relies on many documents.
2. That the matter being urgent in nature and the certified copy of the annexures of them not being readily available it would be in the interest of justice

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and expedient to exempt the petitioner from filing certified copy etc. of filing the annexures / orders.

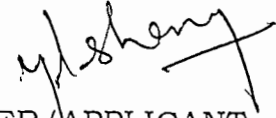
PRAYER

In the facts and circumstances the Hon'ble Court may be pleased to:

- a) Exempt the petitioner from filing the certified copy of the annexures/orders; and/or
- b) Pass such other orders or directions as deemed fit and proper in the facts and circumstances of the case.

Filed on: 04.12.2017

Filed by:



PETITIONER/APPLICANT
PARTY IN PERSON

Yeshwanth Shenoy,
"Priyadarshini",
Veekshnam Road,
Ernakulam -682018

Bar Council of Kerala : K/1011/2001
Mob.: 9967642195
E-mail: yshenoy@gmail.com

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL MISC. NO. _____ OF 2017

IN

WRIT PETITION (CIVIL) NO. _____ OF 2017

IN THE MATTER OF-

Yeshwanth Shenoy

Petitioner

Versus

The Union of India & Anr.

Respondents

AFFIDAVIT

I, Yeshwanth Shenoy S/o Sh. V.L. Shenoy, aged about 38 years, Resident of "Priyadarshini", Veekshnam Road, Ernakulam-682018, Kerala, at present at New Delhi, do hereby solemnly affirm, state and declare as under:-

The Seal of Court
Sl. No. HC-38/2013
MISS MASHNU SANKH
App. by Delhi High Court
Period 14-09-2018
to 15-09-2018
Delhi High Court, New Delhi

1. That I am petitioner in the above noted case and am fully conversant with the facts of the case and competent to file and swear the present affidavit.
2. That the accompanying application under Section 151 CPC for exemption has been drafted by me, contents of the same are true and correct to my knowledge.

Yeshwanth Shenoy
Deponent

Sd/-
I Identify the Deponent who has Signed in my Presence

VERIFICATION: 04 DEC 2017

Verified at New Delhi on this 4th day of December, 2017 that the contents of my affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.

Yeshwanth Shenoy
Deponent

CERTIFIED THAT THE DEPONENT
Sh. Smt./Km. *Yeshwanth Shenoy*
S/o W/o *V.L. Shenoy*
R/o _____
Identified by Shri/Smt. *Sd/-*
has solemnly affirmed before me at _____
on _____ at Sl. No. _____
the contents of the affidavit which
read & explained to him/her are
true to his/her knowledge




04 DEC 2017

SAB

Oath Commissioner

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COURT FEES

 DUPLICATE IP 0000105427 GOVERNMENT OF NCT OF DELHI e-Court Fee 	
DATE & TIME :	04-DEC-2017 11:29:12
NAMES OF THE ACC/ REGISTERED USER :	SHCIL
LOCATION :	DELHI HIGH COURT
e-COURT RECEIPT NO :	DLCT0403L1729L198
e-COURT FEE AMOUNT :	₹ 100 (Rupees One Hundred Only)
 DLCT0403L1729L198	
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