



PAKISTAN AIR LINE PILOTS' ASSOCIATION

AFFILIATED WITH :
INTERNATIONAL FEDERATION OF AIR LINE PILOTS' ASSOCIATIONS &
INTERNATIONAL TRANSPORT WORKERS FEDERATION.

FLASH

Dear Members:

September 09, 2010.

اسلام وعلیکم

We had referred Circular No. DFO/AF/244/2010 dated 5th September 2010, to our lawyers, who advised that the said Circular is in violation of the order of the Honourable High Court of Sindh dated 3rd September 2010.

In the circumstances PALPA's learned counsel has sent notice to Director Flight Operations, Capt. Shuja Naqvi and PIAC, stating that the said Circular is in violation of the order of the Honourable High Court of Sindh, requiring him to withdraw the said Circular forthwith, else appropriate action shall be taken.

The copy of the notice sent to the DFO and PIAC is attached for your perusal.

All members are advised to work in accordance with the PALPA-PIAC Working Agreement 2009-2011.

Thanking you,

Yours sincerely,


Capt. Suhail Baluch
PRESIDENT

Mansoor Ahmad Khan
Founded by

Anwar Mansoor Khan
Advocate
Supreme Court

Asim Mansoor Khan
Advocate

Umalmah Anwar Khan
Barrister-at-Law

Also Correspondent in UK
Associate Firm in UAE



Mansoor Ahmad Khan & Co.
Advocates & Legal Consultants

COPY

S. Irtaza H. Zaidi
Advocate
Supreme Court

Bashir Ahmed Khan
Advocate

Shahid Ali Khan
Advocate

Shumaila Saghir
Advocate

Ishaq G. Z. Khan
Advocate

Our Ref: NTC/AMK/2010-2011/48

09.09.2010

Capt. Shuja Naqvi,
Director Flight Operations,
Flight Operations Department,
PIAC Head Office,
Karachi Airport,
Karachi

Dear Sir,

Your Circular No. DFO/AF/244/2010 dated 5th Sept. 2010, addressed to the Cockpit Crew, has been placed in our hands by our clients, PALPA, a petitioner in Const Petition No. 2568 of 2010, with instructions to reply to you as under:

1. That our client filed the aforesaid petition along with other petitioners, praying inter alia that the action of imposing the Pakistan Essential Services (Maintenance) Act 1952, declaring the Cockpit Crew to be governed under the said Act unlawful, illegal and of no legal effect.
2. That PIA filed their counter affidavit where they agreed that it was the PIA - PALPA who entered into Working Agreement 2009-2011 which agreement spells out the relationship between the PALPA, the Cockpit Crew (Pilots), being members of PALPA to include in it the working conditions of pilots working, with PIAC.
3. That by an order dated 03:09.2010, the following order was passed:

"We have heard the learned counsel as well as the learned D.A.G. In our opinion, once issues have been resolved by the parties through the Working Agreement and subsequently through the meeting afore-mentioned then we would direct them to sit down together and workout any further differences amongst themselves and in this respect we would expect that both the learned counsels would actively assist their respective clients insofar as the issue of fatigue is concerned.---"

In future, please add '3' before the Fax & Telephone Numbers
F - 2/3, Block 8, Kehkashan, KDA Scheme - V, Clifton, Karachi - 75600, Pakistan
Tel : (92-21) 586 8801 (Four Lines) Facsimile : (92-21) 586 8805
Email : mansoor@advomak.com, advomak@gmail.com Web : <http://www.advomak.com>



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4. That the order having been passed, where there was a requirement that PIA and the members of PALPA act on the Working Agreement, where there was no dispute, you have, to coerce the members of the PALPA to agree to working longer hours than what is required by the said Working Agreement, caused threats to be hurled at them by the issuance of the said circular attempting to explain the consequence of the said Essential Services Act, that in the event they refuse to act on your directions and wishes, you would act under the said Essential Services Act to remove the said Pilots. The said Circular is motivated and aimed at seeking to achieve unlawful object, put the passengers and our client's members in jeopardy and risk. You have for you unlawful objects ignored the directions of the Hon'ble High Court, committing contempt of court. You are for achieving you unlawful gains and for self enrichment coercing the pilots to submit to the demands of PIAC. The object of the said notice/ circular is to coerce our clients to withdraw the said petition, which our client is unwilling to do.

5. That you may be reminded that the said Essential Services Act requires only lawful act to be done. The lawful acts that have to be done can only be in accordance with the Working Agreements, as such if you or any of your officer or agent or person under your command coerces or attempts to coerce our client or any member of our client, to work otherwise than under the said Agreement or any part thereof, or attempts to pressurise any member of our client to forgo the 'Days Off', you shall be in contempt of the order of the Hon'ble High Court, which you may please note.

6. That you are aware that PIAC has and continues to commit number of violations of the Working Agreement and has and refuses to mend their ways despite repeated requests made by our clients. You are aware that, prior to the filing of the Petition by our client as a measure to put the PIAC Management on the right and lawful track, on one occasion the Honourable President of Pakistan had to intervene, and despite such intervention, the attitude of PIAC Management did not change. Finally the disputes were taken up by the Ministry of Defence and various meeting were held at office of Ministry of Defence the meetings culminated in signing of minutes of the meeting dated 6th August, 2010 where by certain decisions were taken.

7. That on 6th August, 2010 the PIAC Management despite the intervention of Ministry of Defence and the understanding, you for



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malafide reasons chose to file Suit No. 1262/2010 before the Honourable High Court of Sindh. In that also it was ordered that the Working Agreement is the basis on which the Pilots would work. On this issue at the meeting the Management and PALPA agreed as follows:

- The Committee observed that pilots rest is supreme and safety can not be compromised over revenue under any circumstances.
- The PIAC Management and PALPA will strictly abide by the related clauses of the PALPA-PIAC Working Agreement 2009-2011.
- No retaliatory/punitive action will be taken against any PALPA member by PIAC Management/PALPA with regard to the current disputed issue and any show cause notice/explanation asked for be unconditionally withdrawn.
- It has also been decided that in case of any misunderstanding/misinterpretation of clauses of PALPA-PIAC Working Agreement 2009-2011 such issues shall be resolved by both the parties with mutual understanding and negotiation (under the general norms of good will and decency)

8. That it is apparent that despite the Working Agreement being infield, decision taken before Ministry of Defence as well as the orders passed the Honourable High Court of Sindh in suit No - 1262/2010, the PIAC Management has been able to persuade the Federal Government to impose Essential Services Maintenance Act 1952 (ESMA) on the Cockpit Crew PIAC.

9. That it is for this reason that our clients filed CP No - D-2568/2010 challenging the imposition of Essential Services Maintenance Act (ESMA) where, as aforesaid the Hon'ble High Court of Sindh passed the order dated 3rd September, 2010, afore referred.



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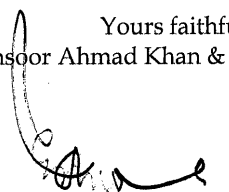
10. That despite orders passed by the Hon'ble High Court the Sindh on 3rd September, 2010 you have issued Circular reference; DFO/AF/244/2010 dated 5th September, 2010 where by you have not only threatened the pilot community but have also gone to the extent of defaming and maligning our clients of having violated the Working Agreement, contempt of court and committing offences under the Essential Services Maintenance Act (ESMA). The said allegations have been attributed without any substance and our clients have been condemned unheard.

11. That due to your wrongful and false defamatory campaign unleashed by you specially in your Circular aforementioned, our clients have suffered great mental torture, agony and stress apart from suffering loss and damage to their reputation. Our clients have been falsely blamed and neither they have violated the Working Agreement nor committed any offence either under contempt of Court or Essential Services Maintenance Act (ESMA).

12. That you as well as PIAC are severely and jointly responsible for publication of the false and defamatory aforementioned Circular and as such liable to pay compensatory charges to our clients.

You are therefore called upon to tender unqualified apology to our clients for publication of the coercive, damaging and defamatory material, withdraw the said circular dated 05.09.10, forthwith, else, our client shall have no choice but to proceed against you in Contempt of Court and for damages and such other actions as may be advised. All actions shall be at your risk as to all costs and consequences

Yours faithfully
for Mansoor Ahmad Khan & Co.


(Anwar Mansoor Khan)
Senior Advocate
Supreme Court of Pakistan