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F I L E D	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE  March 18, 2024 18 mars 2024  Veton Mamudov
	D É P O S É
Applicant	TOR 1

**Notice of Application**  
**Pakistan International Airline**

-And-

**Canadian Transportation Agency**

**Respondent**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *(place where Federal Court of Appeal (or Federal Court) ordinarily sits)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone [613-992-4238](tel:613-992-4238)) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: **March 16<sup>th</sup>** 2024

Issued by: \_\_\_\_\_

*(Registry Officer)*

Address of local office: 180 Queen Street West. **Toronto**, Ontario M5V 3L6. Canada

TO: THE ADMINISTRATOR  
Federal Court of Canada

AND TO: Canadian Transportation Agency

## Application

**This is an application for judicial review** pursuant to s. 18.4 of the Federal Courts Act, a decision by Canadian Transportation Agency (CTA) with reference to legislation SC 1996, c 10 under Canada Transportation Act and Air Passenger Protection Regulations. By the letter dated February 16<sup>th</sup>, 2024 and bearing reference CTA CASE: 21-16874 along Air Travel Complaint Decision ATC-350007-CO-2024, Complaints Resolution Officer 1018 ordered the Applicant that Pakistan International Airlines to compensate Muhammad Taimoor Dar, Sarah Taimoor, their four minor children in the amount of CAD \$1000.00 per passenger for a total of CAD \$6000.00 because:

- The airline informed passengers on August 10<sup>th</sup>, 2021 about a schedule change for August 17<sup>th</sup>, 2021, under 14 days of original scheduled departure. The revision resulted in direct flight to Islamabad on August 19<sup>th</sup>, 2021 instead of August 17<sup>th</sup>, 2021. The airline did not file an answer with CTA and under the law airline should compensate for the delay.

### **The applicant makes application for:**

1. An order setting aside the decision of the CTA dated February 16<sup>th</sup>, 2024 that the applicant must compensate CAD \$ 6000.00 to passenger Dar.
2. An order to turnover CTA decision and release the carrier of any financial liabilities for CTA Case: 21-16874 i.e waive the CAD \$ 6000.00 monetary penalty wrongly imposed on the airline.

### **The grounds for the application are:**

1. Ticketed flight operated on Aug 19<sup>th</sup> 2021 instead of Aug 17<sup>th</sup> 2021 Toronto-Islamabad however CTA failed to mention the options made available to the passenger on Aug 10<sup>th</sup> 2021 including: free change to any other dates within one year, same day (Aug 17<sup>th</sup>) departure to Toronto-Islamabad via Lahore, full refund without penalties. Even after departure, passenger was offered partial refund for return sector or free change for return date. Passenger opted to take revised segment as is meaning he confirmed and accepted the option to depart on August 19<sup>th</sup> 2021. Same noted on ticket history.

**CTA completely failed to properly imply their own notice, exemption and regulation.**

2. CTA mentioned that this change took place on Aug 10<sup>th</sup> 2021, within 14 days of scheduled flight. They stated that under the law, its airline responsibility. However, month of August 2021 was under an exemption order by CTA

themselves. The advice titled Notice: Requirements for discontinuance of Air Services may be found on below mentioned link;

<https://otc-cta.gc.ca/eng/notice-requirements-discontinuance-air-services>.

3. Our operation was reduced Summer of 2021 due to peak of covid in Pakistan which resulted in record number of deaths. During the reduction we had to reposition aircraft for feasibility and crew placement which is why Lahore and Islamabad were swapped and Karachi sector removed in August 2021. CTA failed to take into account their own discontinuation of notice requirements until Aug 31<sup>st</sup> 2021. "Air carriers can until August 31, 2021, temporarily reduce or suspend services without having to follow the notice and consultation requirements of the CTA and ATR".
4. Some correspondence still saved (dating back to 2021) demonstrates follow up with the passenger and various CTA personnel in the last 3 years. We submitted statements throughout for CTA to review and close the complaint. Its unfortunate that the decision imposed has no account of the extensive restraints that PIA had to face in Aug 2021 for which we are still continuing to suffer due deficit incurred in millions for losses of 2020, 2021 and early 2022. CTA continues to entertain bogus claims without any proof of excess expenses incurred by the passenger.
5. As Government owned entity, a CAD \$ 6000.00 payment without receipts or supporting invoice from passenger is an audit objection.

**The Decision lacks procedural fairness and is unreasonable.**

6. We submitted everything to Office des transports in Nov 2021, OTC docs 20 Jan 2022, Complaint resolution in Dec 2023 and the Bureau in Jan 2024. We received no confirmation from CTA with acknowledgement therefore statement of failing to file reply is gravely inaccurate.
7. Transport Canada and Pakistan Civil Aviation both have a requirement of maintaining soft and hard copies, passenger correspondence and flight records for maximum of 90 days. **CTA repeatedly requests for information that dates back 2 to 4 years**. Kindly extend assistance on maintaining 90 days as maximum time frame after we are not accountable as purged records are not accessible.
8. We no longer have access to emails from [ytocrpk@piac.aero](mailto:ytocrpk@piac.aero) received in November 2021 but CTA Complaint Resolution Officer Nizam Choudhry confirmed closing this complaint in Nov 2021.

9. There are discrepancies from CTA in which some emails advise of 90-day process and some of 14-day, without clarifying which part of the process correlates with which time frame.
  
10. The PIA contact email address advice was changed back in June 2022 (to address all emails to [yyzkkpk@piac.aero](mailto:yyzkkpk@piac.aero) and copy to [ytouupk@piac.aero](mailto:ytouupk@piac.aero)). Unfortunately original is purged but confirmation of ytouupk having to forward all emails is maintained. Previous email ytoicrpk@piac.aero was locked due security issues therefore no longer in use.
  
11. There is limited manpower (3 direct employees) working for the airline in Toronto and having to go through same complaints year after year and taking time away from our operational obligations and sales. Process from CTA should not take 2-3 years as the airline posts new employees in Canada every year.

**Further grounds for this application include:**

12. The Federal Courts Act, section 18.1.
13. The Applicant's application for Judicial review has merit
14. The Applicant wishes that the court observe the principle of partiality in this case to allow the Applicant to be heard by the court.

**This application will be supported by the following material:**

- The CTA's notice to carriers outlining exemption on requirements for discontinuance of air services until August 31<sup>st</sup> 2021.
- Documentary evidence submitted by Pakistan International Airlines to CTA in 2021, 2022 and 2023.
- Documented correspondence between Pakistan International Airlines and the passenger.
- Such further and other relief as the Applicant may advise and this Honorable Court deems just.

**The Applicant** requests that the Minister send a certified copy of the following material that is not in the possession of the Applicant but is in the possession of the Minister to the Applicant and to the Registry:

1. Any and all records considered by the decision-maker(s)

**ALL OF WHICH IS RESPECTFULLY SUBMITTED ON THIS 16 DAY OF MARCH 2024**

By:

Pakistan International Airlines

56 Aberfoyle Crescent, Unit 620

Etobicoke, Ontario

M8X 2W4

Tel: 647-567-5880

The Applicant