**ROLE-OF JUDICIARY IN AVIATION SAFETY** 

The Inside Stories of Aircraft Accident Investigations

### Profile

**- 1976 Commissioned in PAF First Fatal Crash Investigation** 1978 In-flight wing separation structural failure (PD Challaghan). **Aircraft Accident investigation Trg** 1985 UK AAI, **Establishment of IAS** 1986 1989 to 2009 Conducted 30 Major investigation s for Air Forces Army, Navy and CAA Independence of investigations **2009** 





### INTRODUCTION

# Aircraft Accident Investigations - Under the table hand shake between operator, regulator and industry -An observation by USA Judiciary -Who represents the public A Change in UK, USA, Canada, and Australia

### A CANADIAN EXAMPLE

1. On 15 December, 1985 an Arrow Air DC 8 **Crashed in Canada** 2. 248 US Mil personnel and 8 Civ died. **3.** Investigation by Canadian Transport **Board was not accepted by USA and Canadian public** 4. On 10, March 1989, A Fokker F 28 of Air **Ontario crashed just 950 meters from** 

runway (24 passengers died)

### PUBLIC INQUIRY BY COMMISION

On 10, March, 1989 Government ordered an Inquiry by Canadian Safety Board
Public rejected it.
On 29, March 1989, Govt facing huge

public pressure and criticism ordered a public inquiry.

### JUDICIAL INQUIRY BY

- Justice Virgil P Moshansky at Court of Queen's Bench at Alberta Canada
- Mandate
- To Inquire into and report on the Contributory Factors and Causes of the crash
- Make recommendations in the interest of Aviation Safety

Judicial Inquiry Proved The most Exhaustive Review of Aviation History

Permanent Role of Judiciary in aviation

Representation of Public interest

Impact on National and International Aviation Safety

### A NEW ACCIDENT INVESTIGATON PHILOSOPHY

Prevailing Methodology

–A probable cause of Pilot error

Operators –

Happy to accept pilot's shoulder for blame

Shield

Operator, regulator and designer

### What Happened

- It Provided an exceptional opportunity for an in depth review of System
   The Pilot Error or Incorrect decision became a starting point for the Inquiry
   It deducted faults not only in the Cockpit but also with operator ,
  - regulator and government policies.

### How it happened?

**By Establishing Credibility** Independence and dignity Transparency **Freedom from Constraints or** Influences.

# Challenges faced by the Commission - I

- Whom to report
  - Ministry or Parliament.
- Mode of Inquiry
  - Public Hearing, Open to Media with daily briefings
- Scope of Investigation
  - Not to Focus only on last event –the accident

Challenges Faced by the Commission II

Records were Refused Documents were sheltered under Evidence Act

Evidence of Mismanagement was declared as state secret Threate of Local action

**Threats of Legal action** 

# Challenges faced by the Commission

Air Ontario (Operator) Intentions Challenged in Federal Count of Canada (Names in Final Report) Generic Findings Against any Finding of Misconduct Naming of Individuals

Determined to name Individuals, organization and Groups

**Result of litigation – Favorable to Commission.** 

Challenges Faced by the Commission IV Canadian Airline Pilots Association Application to prevent pilots' appearance.

Statements before Flight Safety Officer were privileged, based on confidentiality.

Safety Must Trump confidentiality.

Challenges faced by the Commission V Finally Industry's Turn

 Outside Threat To Status Quo
 Criticism of Clean Wing Regulation By Chief Pilot.

Waste of Time, money and efforts in Judges and in matters better understood by Aviation Personnel.

### Findings

**In Three Years** Safety System Weaknesses were exposed. **Govt, Regulators, and Air Operators** were aware of these weaknesses for Decades. **Causes included not only the Pilot** error but "Systematic Failure of **Transportation System**"

**Prominent Findings** Inadequate Aviation Legislation

**Insufficient Human Resources** 

Inadequate Regulatory over sight

#### Recommendation

Final Report with 191 Major Recommendation

**New Aviation Act** 

Civil Aviation Rule (CARs) in harmony with FARs, and JARs.

## Role of Judiciary in Pakistan Aviation Safety

28<sup>th</sup> July, 2010 Tragedy in Margala hills 152 died 28<sup>th</sup> July, 2010 CAA ordered investigation under rule 273 of CARs.

July – August Investigation by CAA rejected by public & Experts & Families of victims

25<sup>th</sup> September, 2010 Petition No 2473 file in Sindh High Court for Board of Inquiry in Air Blue Accident in accordance with international standards by independent experts.

25<sup>th</sup> October, 2010 Sindh High Court Disposed of petition and directed Federal Government to institute Board of Inquiry in accordance with international standards by independent persons

4<sup>th</sup> January, 2011

another petition in Sind high court for removal of non qualified untrained persons at Safety and investigation board of CAA

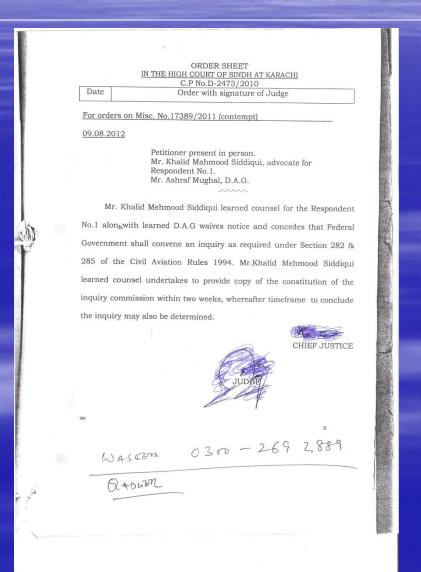
### **The Final Order**



Mr. Shahab Sarki, Learned Standing Counsel, states that on receipt of the investigation report, the Federal Government itself is going to conduct an independent inquiry through a Board of Accident Inquiry in terms of Rule 282 of the em on) Civil Aviation Rules, 1994, which will follow the principles of Paragraphs 3.4.5 as provided in Annex-13 to the Convention on International Civil Aviation known as Aircraft Accident and Incident Investigation filed with the petition as Annexure "J". It is further contended by the learned Standing Counsel that in case it is considered necessary by the Federal Government to take over the investigation in terms of Rule 273, the same can also be done by it as per Rule 285. In case the Investigation Team fails to complete the investigation and put up its report within a period of two months, the Federal Government shall exercise the powers under Rule 282 & 285 of the Rules as noted and have the investigation and inquiry conducted by independent persons as per conventions noted above. The petition in the above terms is disposed of. The listed application is also S. - Jonam BAL 20 Balach JUDGE lisposed of.

#### The Order for Contempt of court





## THANK YOU