* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of Order: May 22, 2018***

\+ **W.P.(C) 9601/2017 & CM 39073/2017**

SAPTAPARNA SIKDAR ..... Petitioner
Through: Mr. Avijit Bhattacharjee, Mr. Ajoy Ghosh, Mr. Abhay Kant Mishra and Ms. Upma Srivastava, Advocates

versus

FOOD CORPORATION OF INDIA & ORS .....Respondents
Through: Mr. Manoj, Standing Counsel with Ms. Aparna Sinha, Advocate

**CORAM:**
**HON'BLE MR. JUSTICE SUNIL GAUR**

**O R D E R**
**(ORAL)**

1. By way of this petition, a mandamus is sought to respondent-FCI to appoint petitioner on the post of Assistant Grade-III (Technical) while relying upon the extract of the list of selected candidates *(Annexure P-2)* wherein the name of petitioner figures at Sl. No. 266. Petitioner claims that upon selection on the above-said post, online document verification was done by respondent-FCI on 31st December, 2015.

2. Learned counsel for petitioner submits that upon learning about the cancellation of petitioner's candidature, she had made a Representation on 1st March, 2017 which stands rejected by respondent-FCI by Communication of 27th June, 2017 *(Annexure P-5)* whereby petitioner

was informed that her candidature cannot be renewed as she had failed to join within stipulated time.

3. The challenge to the impugned Communication of 27th June, 2017 *(Annexure P-5)* by petitioner's counsel is on the ground that *'offer of appointment'* was not sent and received by petitioner at her communication address provided in the application.

4. In the counter affidavit filed by respondent-FCI, it is disclosed that *'offer of appointment'* was sent to petitioner by registered post on 16th July, 2016 and the said registered post was received back undelivered and vide letter of 21st September, 2016, petitioner was given last opportunity to report for duty on or before 5th October, 2016 and the said Communication *(Annexure R/4 colly.)* was received back with endorsement *'left without address'*. The stand taken in the counter affidavit by respondent-FCI is that on 1st July, 2016 posting details of all the candidates showing the place of posting of each selected candidate was uploaded on www.fci.gov.in.. However, petitioner in the rejoinder filed has denied that the aforesaid information was uploaded on the official website of respondent-FCI.

5. According to petitioner's counsel, the *'offer of appointment'* sent by registered post was not received at the communication address given by petitioner. Reliance is placed by petitioner's counsel upon Supreme Court's decision in *Union of India and Others v. Pritilata Nanda,* (2010) 11 SCC 674 to submit that denial of promotion is patently illegal.

6. Learned counsel for respondent-FCI has produced the original record and has informed this Court that the vacancies in relation to

Advertisement in question have been filled up. However, it is stated that due to resignation/non-joining of some of the employees, four posts of Assistant Grade-III (Technical) are still lying vacant, but the question of seniority would be an issue, as persons junior to petitioner have already joined. So, dismissal of writ petition is sought by respondent's counsel.

7. Upon hearing and on perusal of impugned Communication of 27th June, 2017 *(Annexure P-5),* material on record and the decision cited, I find that last opportunity was granted to petitioner to report for duty, which was conveyed to petitioner vide Communication of 21st September, 2016 *(Annexure R/4 colly.)* and the proof of postal service is also attached with this Annexure. Learned counsel for respondent-FCI has produced before the Court the original postal envelope, which shows that *Annexure R/4* was sent to petitioner at her Delhi address and it bears the stamp of postal authorities. The endorsement made on this postal envelope is *'left without address'* and this endorsement bears the date of 24th September, 2016.

8. During the course of hearing, petitioner's counsel had disputed the genuineness of the postal envelope so produced by respondent-FCI, but in the considered opinion of this Court, there is no justification to cast any doubt on the postal envelope vide which Communication (*Annexure R/4 colly.)* was sent. Admittedly, in September, 2016 petitioner was not residing at the address given on this envelope. Reliance placed by petitioner's counsel upon decision in *Pritilata Nanda (supra)* is of no avail as the basis for denial of appointment in the said case was that the name of the candidate was not sponsored by employment exchange. In

the instant case, there has been apparent lack of diligence on the part of petitioner as after the document verification, she had not been diligently pursuing the matter with respondent-FCI.

9. Regarding uploading of result on the official website of respondent-FCI, I find that there is no basis to doubt that the postal details of all the selected candidates were uploaded on the official website, i.e., www.fci.gov.in.. It is sheer negligence of petitioner that she did not keep track on the official website of respondent-FCI. It is aptly said that if one sleeps over one's right, then one loses it. Although some posts are still lying vacant, but any undue sympathy to petitioner would prove counter-productive as the question of seniority would be a difficult issue.

10. Since the entitlement of petitioner to seek direction to respondent-FCI to appoint her on the post in question is belated, therefore, the refusal of respondent-FCI to renew petitioner's candidature for the post in question is justified. Consequently, finding no substance, this petition and the application are dismissed.

**(SUNIL GAUR)**
**JUDGE**

**MAY 22, 2018**
v/s