

\$~13

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

+ LPA 1/2020

JYOTSNA MISHRA

..... Appellant

Through: Mr.R.S.Mishra and Mr.Anand
Mishra, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms.Anjana Gosain, Ms.Himanshi and
Ms.Shalini Nair, Advocates for
respondent No.1.
Mr.Digvijay Rai, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **07.01.2020**

1. The appellant has preferred the present appeal to assail the judgment dated 15th October, 2019 rendered by the learned Single Judge whereby the appellant's petition W.P.(C) 4550/2018 has been dismissed. The appellant had preferred the said writ petition to seek a direction to the respondents to grant her promotion to the post of Assistant Manager (Official Language) with effect from 1st July, 2014, instead of 1st October, 2016. The appellant had joined respondent-Airport Authority of India as Junior Executive (Official Language) on 27th April, 2011. On the recommendation of the DPC, the competent authority approved the promotion of Junior Executive (Official Language) to the post of Assistant Manager (Official Language) and the communication to that effect was issued on 31st August, 2015. This promotion was to take effect from 1st July, 2018. Soon after the said

communication was uploaded on the website of the respondent-Airport Authority of India, the appellant sent a representation on 2nd September, 2015 and claimed that she had got married on 9th March, 2015 and was residing with her husband in Delhi who was posted as Assistant Manager (ATC) with Executive Director (ATC) in the Airport Authority of India. She requested that she be posted alongwith her husband, who was also shortly due for transfer. It appears that the respondents acted on the said letter and despite the petitioner not joining the promotional post at her new place of posting on the due date, no action was taken against the appellant. However, it appears that the respondents barred the appellant from promotion for a period of two years on account of not joining the promotion post. Upon the expiry of the said period of two years, with effect from 1st July, 2014, the appellant was again promoted to the said post of Assistant Manager (Official Language), with effect from 1st October, 2016. On this occasion, the appellant joined the post and after she joined the said post, she sought ante dating of the promotion to 1st July, 2014 on the premise that the earlier promotion order dated 31st August, 2015 had never been served upon her and therefore, she could not join the promotional post. This plea of the appellant has been rejected by the learned single judge.

2. Learned counsel for the appellant submits that since the earlier promotional order dated 31st August, 2015 has not been served upon her, she was not obliged to and could not have joined the promotional post. He further submits that the appellant had never refused to join at her place of posting on promotion in terms of order dated 31st August, 2015.

3. Having heard learned counsel for the appellant and perused the record, we find no merit in the present appeal, and the impugned judgment, does not

call for interference. The appellant made the representation dated 2nd September, 2015 soon upon the issuance of the promotion order dated 31st August, 2015. The same had been uploaded on the official website of the respondent and appellant was, obviously, aware of the same. She also made representation through a Member of Legislative Assembly (MLA). The respondents examined the appellant's request and responded that there was no promotional post available at Delhi where she could be posted. The appellant, therefore, did not join the promotional post at her own peril. She, therefore, could not have staked the claim of seniority from 1st July, 2014 when she had not joined the promotional post. Learned single judge has rightly held that the conduct of the appellant did not support her plea that she had desired to join her posting on promotion, in terms of the letter dated 31st August, 2015, and that she could not do so on account of the said letter having not been served upon her. Pertinently, the appellant did not raise any grievance and did not address any communication to claim that she was not allowed to join promotional post on the place of posting, in terms of letter dated 31st August, 2015. Instead she started staking claim for ante dating promotion only after being promoted with effect from 1st October, 2016.

4. Accordingly, we do not find merit in this appeal. The same is dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

JANUARY 07, 2020

v