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

+ **W.P.(C) 16127/2024**

ALKA

.....Petitioner

Through: Ms. Aditi Gupta and Mr. Utkarsh,
Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sanjay Sarin and Mr. Rohan
Jaitley, CGSCs with Mr. Hussain Taqvi, Mr. Dev
Pratap Shahi, Mr. Yogya Bhatia and Ms. Ranjana
Jetley, Advocates for R-1 and R-2.
Mr. Shish Pal Laler and Mr. Hitesh Kumar,
Advocates for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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21.11.2024

C.M. APPL. 67763/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 16127/2024 & C.M. APPL. 67762/2024

3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“a. Allow the present Petition; and/ or

b. Issue a writ of mandamus directing respondent No.2 to consider the petitioner for the post of Director (Sales) w.e.f 01.01.2020

c. a writ of Certiorari calling for the record of the DPC dated 19.8.2019 and quashing the promotion of the respondent No.3 as Director (Establishment) and/or

d. Issue a mandamus to the Respondents to consider the Petitioner for further promotion to the selection Grade w.e.f. 01.01.2025.”



4. It is the case of the Petitioner that she was appointed to the post of Deputy Director (Public Relations) vide appointment letter dated 22.08.2014 with Bureau of Indian Standards ('BIS')/Respondent No. 2 and is currently working as Secretary, BIS, which is a Statutory Body under the control of Respondent No.1. As per Regulation 6 of the Bureau of Indian Standards (Recruitment to Administration, Finance and Other Posts) Regulations, 2007 ('RRs'), promotion to a selection post is merit based with due regard to seniority from amongst the officers in the zone of consideration. Petitioner was, however, never considered for promotion to the next post *albeit* having joined on 22.09.2014, she was the senior-most functionary of PR Department at headquarters as on 09.05.2017 since Ms. Renuka Salwan had taken voluntary retirement on 08.05.2017. Petitioner was not even granted promotion on *ad hoc* basis or on additional charge and her juniors, who joined after her in the organisation, have been promoted.

5. It is averred that the victimisation of the Petitioner started when she became a witness in a case pertaining to a sexual harassment complaint against Sh. Vinod Kumar, Director (Accounts). The grievance of the Petitioner is that Respondent No. 3 who was appointed as Deputy Director (Administration & Finance) on 20.01.2009 received several promotions including promotion to the post of Director (Establishment) on recommendation of the DPC convened on 19.08.2019 besides receiving financial upgradation under MACP Scheme. One Mr. N. Ravi Shankar was also promoted as Director (Sales) and in fact, even the juniors of the Petitioner who joined with her in September, 2014 at the level of Assistant Director had been considered and promoted w.e.f. 01.01.2020 but she was not even considered. Petitioner has been representing consistently for her



promotions as she is stagnating for over a decade but no redressal has been granted to her. Even in the last representation dated 01.07.2024, Petitioner made an earnest request to consider her for promotion to the post of Director. Respondents convened a DPC on 05.11.2024 and even then, Petitioner's case was not considered for the post of Director (Selection Grade) and she was informed that the DPC was deferred for 21.11.2024.

6. Learned counsel for the Petitioner submits that Petitioner was appointed as Deputy Director (Public Relations) on 22.08.2014 and till date she has not been considered for promotion and is stagnating. Not only her colleagues and batchmates but also her juniors have been promoted in the meantime to the post of Director (Selection Grade) and this is causing grave mental trauma to the Petitioner besides having to serve under her juniors. It is a settled law that while right to promotion may not be a vested right but right to be considered for promotion is a fundamental right of an employee and in the entire career all one aspires is for promotion and upward progression.

7. Issue notice.

8. Mr. Sanjay Sarin, learned Central Government Standing Counsel accepts notice on behalf of Respondents No. 1 and 2.

9. Mr. Shish Pal Laler, learned counsel accepts notice on behalf of Respondent No. 3.

10. From the reading of the averments in the writ petition, it appears that Petitioner has not been considered for promotion from the post of Deputy Director (Public Relations) to the post of Director (Selection Grade) for the past one decade *albeit* as per the RRs as relied upon by the Petitioner, she is eligible. Petitioner painfully urges that not only her batchmates but even her



juniors have taken a march over her and promoted to the next post. The claim of the Petitioner to be considered for promotion seems justified as she is stagnating for a long period. Representations are unanswered. It is no longer *res integra* that right of eligible employees to be considered for promotion is a part of their fundamental right guaranteed under Article 16 of the Constitution of India *albeit* a person has no fundamental right of promotion. [Ref: *Badrinath v. Government of Tamil Nadu and Others*, (2000) 8 SCC 395; *S.B. Bhattacharjee v. S.D. Majumdar and Others*, (2007) 10 SCC 513; and *Union of India and Another v. Hemraj Singh Chauhan and Others*, (2010) 4 SCC 290].

11. In view of the above, without entering into the merits of the case and considering that Petitioner's case has not been considered for promotion till date and her representations are pending, this writ petition is disposed of directing Respondents No. 1 and 2 to examine the representations of the Petitioner and additionally treat this writ petition as a representation and look into her grievances pertaining to non-consideration of her case for promotion to the next scale of Director (Sales) with effect from 01.01.2020, when the juniors of the Petitioner were promoted. While taking the decision, Respondents No. 1 and 2 shall consider all factual and legal aspects flagged by the Petitioner in the present petition and her representations and the settled law that right to be considered for promotion of eligible employees is a fundamental right. Competent Authority will also take into consideration the significant factors highlighted by the Petitioner that even her juniors have been promoted while she has been overlooked and allegedly singled out. The decision will be taken within a period of three weeks from the date of receipt of this order. In case the Competent Authority finds merit in the



grievance of the Petitioner, it will proceed to convene a DPC to consider her case for promotion. However, in case the decision is otherwise, a reasoned and speaking order shall be passed by the Competent Authority which shall be communicated to the Petitioner within a period of one week from the date of the decision and Petitioner will be at liberty to take recourse to legal remedies, in case of any surviving grievance.

12. Pending application also stands disposed of.

JYOTI SINGH, J

NOVEMBER 21, 2024/shivam