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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 929/2013

MAHENDER KUMAR ARYA & ORSAppellants

Through: None.

versus

AIRPORT AUTHORITY OF INDIARespondents

Through: Mr. Digvijay Rai, Mr. Archit Mishra,
Advts. with Mr. Yatinder Choudhary,
Law Officer/AAI, Mr. Jayesh
Bhargawa, JE (Law), AAI. (M-
9873103599)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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16.05.2025

1. This hearing has been done through hybrid mode.

Review Petition 67/2016

2. This review petition has been filed seeking review of the judgment dated 18th November, 2015. Vide the said judgment, a Coordinate Bench of this Court has held as under:

“12. As regards LPA No.929/2013 in view of the decision in favour of the appellants herein by the learned Single Judge the appellants claim that they are entitled to monetary emoluments and seniority from the same date as those who have already been recruited and they should not be discriminated. It is well-settled that the emoluments and seniority for direct recruit can be granted only from the date of his joining the service and not from the date when people senior to him in the merit list have joined. Indubitably, the candidates already appointed were higher in the merit list so senior to the appellants. Thus the case of the appellants is akin to that of wait listed candidates who are appointed subsequently and cannot claim appointment from a back

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date. The Supreme Court in the decision reported as JT 1994 (3) SC 559 Gujarat State Dy. Executive Engineers' Association Vs. The State of Gujarat & Ors. held that a candidate from the wait list appointed subsequently cannot claim appointment from a back date and even otherwise appointment of a candidate operates from the date he is appointed and not from the date when the candidates from the select list are appointed. Same principle applies even amongst the inter-se appointees from the waiting list. Thus there is no error in the impugned judgment directing that all the service entitlements whether they be monetary emoluments or seniority will be taken from the date of their joining with the respondent, if the writ petitioners get employment with the AAI in terms of the judgment."

3. Thus, the monetary emoluments, all services entitlements, seniority, etc. are to be counted from the date of joining with the Respondent in terms of the above judgment.
4. In the present petition, the main prayer is that the seniority of the Petitioners ought to be fixed as per the merit position along with their batch mates. Further, it is prayed that all further consequential benefits be also provided to the Petitioners.
5. This review petition had been adjourned sine die in view of the pendency of **SLP (Civil) No.4826-27/2016**. The said order reads as under:

"R.P.No.67/2016

- 1. Limited review impacting seniority alone, as a consequence to the relief granted to the appellants is sought.*
- 2. But we are informed that the decision, limited review whereof is prayed for, has been stayed by the Supreme Court in SLP (C) No.4826-27/2016. Therefore, as prayed by learned counsel for the parties hearing in the review petition is adjourned sine die with liberty granted*

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to move an application for revival depending upon the decision in the Petition seeking Special Leave to Appeal, for should the decision be overruled nothing will remain to be adjudicated.”

6. The Court is now informed that the **SLP (C) No. 4826-27/2016** had been incorrectly recorded in the said order. The order dated 18th November, 2015 passed in the **LPA 929/2013** was challenged before the Supreme Court in **SLP(C) 8072-8073/2016** titled **Airports Authority of India v. Vikas Singh & Ors.** The said SLP was dismissed vide order dated 2nd March, 2022 which reads as under:

“We are not inclined to interfere with the impugned order. The Special Leave Petitions are accordingly dismissed.

Pending application, if any, also stands disposed of.”

7. In addition, it is submitted by the Id. Counsel for the Airport Authority of India that the Petitioners have also filed separate writ petitions being **W.P. (C) 3318/2023** titled **Mahendra Kumar Arya and Ors. v. Airports Authority of India and Anr.** seeking the same prayer as has been sought in the review which is now pending before the Single Judge.

8. In view of the above, the review petition is no longer tenable and the same is accordingly dismissed.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 16, 2025

Rahul/Msh.

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