(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD

This is the **22nd** day of ***January, 2020***.

ORIGINAL APPLICATION NO. 330/00347/2019

HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. PRADEEP KUMAR, MEMBER (A)

1. Girraj Prasad, aged about 59 years, son of Sri Mohal Lal, Presently working as Helper/Khalasi at Ambala under Divisional Electrical Engineer, Railway Electrification, Bhatida .

2. Jagdish Prasad, s/o Girraj Prasad, Both Resident of House No. 38A, Natwar Nagar, Dhauli Piau, District - Mathura.

.....Applicants

VERSUS

1. Union of India through General Manager, North Central Railway, Subedarganj, Allahabad.

2. The General Manager, Railway Electrification, Nawab Yusuf Road, North Central Railway, Allahabad.

3. Divisional Railway Manager (P), North Central Railway, Jhansi Division, Jhansi.

4. Chief Personnel Officer (Admn.), North Central Railway, Jhansi.

.....Respondents

Advocate for the Applicants : Shri Vinod Kumar

Advocate for the Respondents : Shri Upendra Nath Sharma

O R D E R
Delivered by Hon'ble Rakesh Sagar Jain, Member-J

Heard Shri Vinod Kumar, learned counsel for the applicants and Shri Upendra Nath Sharma, learned counsel for the respondents.

2. The applicants have filed this Original Application seeking direction to the respondents to consider the case of applicant no. 1 for appointment under LARSGESS Scheme.

3. The Railway was running a Scheme known as Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

4. As per the OA, applicant No. 1, who is father of applicant no. 2, while working as Helper Khalasi under the respondents, applied for his voluntary retirement on 21.01.2016 (Annexure No. 3) under the LARSGESS and also for appointment of his son i.e. applicant No. 2 under the said Scheme. Having received no response, the applicants filed an application under RTI Act regarding his claim and in response thereto, the respondents vide reply dated 15.01.2016 (Annexure No. 6) informed that the name of the applicant no. 1 shown in the seniority list under the safety category as Trackman and as such under the LARGESS, his claim may be considered. Learned counsel for the applicants states that the grievance of the applicants would be redressed if a direction is given to the competent authority to consider the claim of the applicants in accordance with the Railway Board order dated 26.09.2018 (R.B.E. No. 150/2018) as well as Circular dated 28.09.2018 (RBE No. 151/2018).

5. Main relief in the OA is to consider the appointment of the ward of the applicant no. 2 under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

6. The issue of LARSGESS Scheme was examined by Hon'ble Punjab and Haryana High Court in CWP No. 7714/2016 arising out of the order passed by Chandigarh Bench of this Tribunal in the case of Kala Singh and others vs. Union of India and others in OA No. 060/656/2014. While disposing of the CWP No. 7714/2016, Hon'ble High Court vide the judgment dated 27.04.2016 held that the LARSGESS Scheme does not stand the test of the Article 14 and 16 of the Constitution of India and the

Railway Board was directed to re-consider the said Scheme. The Review petition filed by the respondents was also dismissed by Hon'ble High Court vide order dated 14.07.2017. Subsequently the Railway Board challenged the order of Hon'ble High Court before Hon'ble Supreme Court in the SLP (C) No. 508/2018 and vide order dated 8.1.2018, Hon'ble Supreme Court declined to interfere with the order of Hon'ble High Court.

7. Thereafter, the Railway Board has reviewed the LARSGESS Scheme as per the direction of Hon'ble Punjab and Haryana High Court and vide its order dated 26.09.2018 (R.B.E. No. 150/2018) has decided as under:-

> "2. In compliance with the above directions, Ministry of Railways have revisited the scheme duly obtaining legal opinion and consulted Ministry of Law & Justice. Accordingly, it has been decided to terminate the LARSGESS Scheme w.e.f. 27.10.2017 i.e. the date from which it was put on hold. No further appointments should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.17 (but not normally superannuated) and their wards could not be appointed due to the Scheme having been put on hold in terms of Board's letter dated 27.10.17 though they had successfully completed the entire process and were found medically fit. All such appointments should be made with the approval of the competent authority."

8. Subsequently, another Circular dated 28.09.2018 (RBE No. 151/2018) was issued. The contents of Circular are reproduced as below: -

> "In supersession to Railway Board's letter No. E(P&A)1-2015/RT-43 dated 26.09.2018, it is stated that while the LARSGESS Scheme continues to be on hold with effect from 27.10.2017 on account of various cases, to impart natural justice to the staff who have already retired under LARSGESS scheme before 27.10.2017 (but not naturally superannuated) and appointment of whose wards was not made due to various formalities, appointment of such of the wards/candidates can be made with the approval of the competent authority.".

9. Thus the LARSGESS Scheme has been terminated with effect from 27.10.2017 and only the cases where the employees have already retired

under LARSGESS before 27.10.2017 but who are not normally superannuated and whose case could not be considered because of the order of the Railway Board to put the Scheme on hold can be considered under the Scheme.

10. In view of the circumstances as discussed above, this OA is finally disposed of by remitting the matter to the competent authority amongst the respondents to consider the case of the applicants in the light of the Railway Board order dated 26.09.2018 (R.B.E. No. 150/2018) as well as Circular dated 28.09.2018 (RBE No. 151/2018) and to pass an appropriate speaking order under intimation to the applicants within three months from the date of receipt of a copy of this order.

11. It is made clear that we have not expressed any opinion about the merit of the case while passing this order.

12. There will be no order as to costs.

(Pradeep Kumar)
Member-A

(Rakesh Sagar Jain)
Member-J

Anand…