

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 045/0077 of 2017

Date of Decision: 30.10.2019.

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER

Shri Baijnath Mali,
Son of Late Rajeswar Mali,
Working as Khalashi Helper,
Office of the Sr.Section Engineer(Con)
N.F.Railway, Near Guwahati
Guwahati Railway Station, Guwahatij-781001.

... Applicant

By Advocate: Mr.M.Chanda
-Versus-

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Railway,
New Delhi-
2. The General Manager(Construction)
N.F.Railway, Maligaon
Guwahati-781011
3. The Divisional Railway Manager(P)
N.F.Railway, Lumding
P.O.Lumding, Dist-Hoja, Assam
4. The Sr.Section Engineer(Con)
N.,F.Railway, Guwahati, Near
Guwahati Railway Station.
Guwahati-781001
5. The Deputy Chief
Signal and Telecommunication Engineer(Con)
Maligaon, Guwahati-781011

... Respondents

By Advocate Ms.Usha Das,

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act 1985, with the following reliefs:-

“8.1 That the Hon’ble Tribunal be pleased to declare that the son of the applicant Shri Vijay Kumar Mali @ Shri Vijay Kumar Bhandari is entitled to get employment under the LARSGESS Scheme.

8.2 That the respondents be directed to consider the application submitted by the applicant and give appointment to the son of the applicant under the said scheme forthwith.”

2. Mr.M.Chanda, learned counsel for the applicant submitted that the applicant was initially appointed as Khalashi in the year 1983 on regular basis under Respondent No.4 and was placed under the Respondent No.5. Thereafter, he was promoted to the post of Khalashi Helper and working in the said post till now.

3. Learned counsel further submitted that the Railway department, Ministry of Railway, Govt. of India introduced a Safety Retirement Scheme for the Safety Category Staff called as "Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff" in short(LARSGESS)videNo.E/(P&A)-2010/RT-2 dated 11.09.2010. Under the said scheme employment to a suitable ward of the Railway Employees working in the Safety Category is admissible. The categories of staff covered under the Scheme are those who are working in Operating Department, Civil Engineering Department, Signal and Telecommunication Department, Mechanical Department and Electrical Department.

4. Learned counsel submitted that pursuant to the LARSGESS Scheme, the applicant submitted application in the month of September/October, 2015 seeking voluntary retirement and also for simultaneous appointment of his son Shri Vijay Kumar Bhandari (Mali) under the provisions of the LARSGESS Scheme.

5. Learned counsel further submitted that "Mali is the caste of the applicant and his surname is "Bhandari". But somehow at the time of his appointment as Khalashi, the applicant was enrolled in the name of Baijnath Mali instead of Baijnath Bhandari which remained in his official records. On contrary, the name of his son Vijay Kumar Bhandari i.e. with his original surname is in his Admit Card, mark sheet etc. of his HSLC Examination. As such the applicant and his son Vijay inspite of their surnames in two different stage each i.e "mali" and 'Bhandari' are infact the one and the same persons but the said dichotomy of surname continued to be used in a loose manner.

6. Learned counsel further submitted that the applicant fulfilled all the requirements for seeking voluntary retirement under the LARSGESS Scheme and his son Vijay also having been a HSLC passed candidate, was eligible for appointment under LARSGESS Scheme. As such, the applicant applied for his voluntary retirement as well as the simultaneous appointment of his son under the provisions of the LARSGESS Scheme which they are legitimately entitled

to get. However, subsequently, in case of his son Vijay Kumar, the said error was corrected and the surname of Vijay Kumar was recorded as "Bhandari" in his Admit Card, Marks sheet and Certificate of HSLC examination. But even thereafter the application of the applicant has been left unprocessed on the alleged ground of anomalies in respect of the surname of the applicant and his son.

7. Learned counsel submitted that situated thus, the applicant submitted one representation dated 21.01.2017 for consideration of appointment of his son Shri Vijay Kumar @ Vijay Kumar Bhandari under the LARSGESS Scheme, since the applicant is due to retire from service on 31.01.2020. But the said representation dated 21.01.2017 has been rejected without providing any opportunity of hearing to the applicant.

8. Ms.Usha Das, learned Railway Standing counsel for the respondents submitted that after verification with educational documents discrepancy appeared and his application was not considered. During recruitment process, it is found that the name of the applicant and his

ward recorded in the service record and family declaration submitted by the applicant was not tallying with the name recorded in the educational documents.

9. Learned counsel further submitted that there is also established provision relating to change of name of Railway servant in service record as laid down in para 1201 & 1202 of Indian Railway Establishment Manual Vol-1 and DOPT's OM No.19016/1/87-Estt(A) dated 12.03.1987. In the said paras, it is not mentioned that change of name or any modification in name can be done by swearing affidavit only. Being a literate employee the applicant should follow the extent procedure. If the applicant wanted to change the name or alter any portion of name or surname he could do the same as per provision laid down in para 1201 & 1202 of Indian Railway Establishment Manual Vol-1 and DOPT's O.M.No.19016/1/87-Estt(A) dated 12.03.1987. So, Railway Authority has rejected the application of the applicant as per rule.

10. Be that as it may, since the representation of the applicant dated 21.1.2017 is still pending, as such, without

going into the merits of the case as well as in the ends of justice, we direct the respondent authority to dispose of the representation filed by the applicant dated 21.7.2017 within a period of one months from the date of receipt of this order.

11. It is made clear that the decision so arrived by the respondent authority shall be communicated to the applicant forthwith.

12. O.A. stands disposed of accordingly. No order as to costs.

(N.NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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