

Central Administrative Tribunal Hyderabad Bench

OA No.021/185/2020



Hyderabad, this the 27th day of February, 2020

Hon'ble Mr. B. V. Sudhakar, Member (A)

Shri B. Mallesh, aged 58 yrs., Gr. 'C'
S/o Kistaiah, Working as Sr. Trackman,/GT/S.C.Railways
R/o H.No.1-68(V) Wangapally, (M) Yadagirigutta(D)
Yadadry Bhongir, P.O.508286, Telangana ... Applicant

(By Advocate: Mr. G. Pavana Murthy)

vs.

Union of India rep by its

1. General Manager
S.C.Railway, 3rd Floor, Railnilayam
Secunderabad, Telangana.
2. The Chief Personnel Officer
S.C.Railway, 4th Floor, Railnilyam
Secunderabad, Telangana.
3. The Divisional Railway Manager
S.C.Rly, Secunderabad Division, Sanchalan Bhavan
Secunderabad.
4. The Sr. Divisional Personnel Officer
S.C.Rly, Secunderabad Division, Sanchalan Bhavan
Secunderabad. Respondents

(By Advocate: Mr. M. Venkateswarlu, SC for Railways)

O R D E R (Oral)

2. The OA has been filed challenging the rejection orders issued by the 4th Respondent vide letter dated 17/21.01.2020 in not considering the ward of the applicant for appoint under LARSGESS Scheme.

3. Brief facts of the case are that the applicant opted for Voluntary Retirement in order to seek appointment to his son under LARSGESS Scheme. The applicant's son was qualified in all respects but there was some discrepancy in regard to the Date of Birth, which was latter resolved vide competent authority's letter dated 25.03.2009. In the meanwhile, LARSGESS Scheme was kept in abeyance by the Hon'ble Supreme Court. Thereafter, the LARSGESS Scheme, was terminated w.e.f. 27.10.2017 vide Railway Board's order dated 05.03.2019, as per the observations of the Hon'ble Supreme Court in SLP (C) No.508/2018, dated 6.3.2019 (Annexure A5). However, Hon'ble Supreme Court in WP (C) Nos.219/2019 and 448 of 2019 and vide Railway Board's letter dated 29.05.2019 (Annexure A9), gave liberty to the employees to ventilate the grievance in respect of the applications made under LARSGESS Scheme by making representations to the competent authority. Accordingly, the applicant made a representation on 15.06.2019 to consider the case of his son for appointment under LARSGESS Scheme. As the same was rejected on 17/21.01.2020, the OA has been filed.



4. The contentions of the applicant are that Hon'ble Supreme Court vide orders dated 06.03.2019, 26.03.2019 and 22.04.2019, has given liberty to the petitioner to approach the respondents through a representation, which was expected to be examined and decided. Besides, Railway Board in its letter dated 29.05.2019 has not laid down any parameters to decide such representations, but directed the Railways to decide each individual representation based on the factual matrix of the case. The 2nd Respondent has considered the case of a similarly situated employee and directed the ward of the employee for medical examination. In respect of the applicant's case for appointment to his son under LARSGESS Scheme there was delay in rectifying the discrepancy of date of birth and, therefore, the applicant's case has to be construed as has arisen before the cut off date as prescribed by the Railway Board. The stand of the respondents that the ward of the applicant has not completed all formalities, as mentioned in the impugned order, is incorrect. In a similar case, wherein the respondents took the stand that since formalities have not been completed for offering appointment under LARSGESS Scheme, when challenged in OA 1057 of 2019, the OA was allowed and the applicant therein was permitted to appear for medical examination. Further, the Principal Chief Personnel Officer vide his letter dated 07.06.2019 has considered



the case of Shri L.Nageshwara Rao, even though the representation was made after the cut off date.

5. On an advance copy received, Shri M. Venkateswarlu, learned counsel appeared on behalf of the respondents and reiterated the pleas already taken in the impugned order and, therefore, contended that the

OA is liable to be dismissed.

6. Heard both the counsel and perused the pleadings on record.

7. (I) The learned counsel for the respondents, has submitted that the applicant's case could not be entertained since formalities have not been completed particularly in the context of there being a discrepancy in regard to Date of Birth of the ward of the applicant. A similar case was dealt by this Tribunal in OA 1057 of 2019, wherein it was observed as under:

“3. The applicant is seeking appointment under the LARSGESS. As per the applicant he is eligible for the same and by the impugned order, his case is not considered for the simple reason that certain formalities such as medical examination, etc., have not been done before the cut-off date. That is not the idea presented by the Hon'ble Supreme Court. The Hon'ble Supreme Court has simply given a date i.e. 27.10.2017 as cut-off date. Prior to that, a Committee headed by General Manager (Personnel) shall consider the cases of eligible persons. We are of this view that for technical reason, the case of the applicant should not be rejected. The impugned order dated 17.09.2019, which is not as per the directions issued by the Hon'ble Supreme Court is liable to be set aside. We hereby set aside the same. The applicant should be allowed to go for the medical examination and, if he is otherwise fit, he may be given appointment, in accordance with law.”

(II) Besides, the applicant has submitted that similarly situated employees have been entertained by the respondents, as referred to in Para 4 above. In view of the aforesaid and the facts narrated by the applicant about considering the cases of similarly situated employees, the respondents are directed to consider the case of the applicant as well, keeping in view the Hon'ble Supreme Court and the Railway Board's orders referred to in the OA and the decision of this Tribunal in OA 1057 of 2019 (supra), for examining the relief sought by the applicant as per rules and in accordance with law, and pass a speaking and well reasoned order, within a period of 8 weeks from the date of receipt of a copy of this order.

With the above direction(s), the OA is disposed of and there shall be no order as to costs.

(B. V. Sudhakar)
Member (A)

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