

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA



No.O A.350/885/2019
M.A.350/476/2019

Date of order : 09.12.2019

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

KHALIL & ANOTHER
VS.
UNION OF INDIA & OTHERS
(EASTERN RAILWAY)

For the applicant : Md. Ahsanuzzaman, counsel

For the respondents : Mr. A.K. Guha, counsel

ORDER

Bidisha Banerjee, Judicial Member

This O.A. has been filed seeking the following reliefs:-

- "a) A direction may be given upon the respondents, particularly the respondent No.3 to issue appointment letter to the applicant No.2 under the LARGESS scheme pursuant to the order of the Central Administrative Tribunal by quashing the impugned order being No.E/Resv.Cell/Court Case/Khalil/HWH dated 26.4.2019 passed by him;
- b) A direction may be given upon the respondents particularly the respondent No.3 to show cause as to why he should not be directed to provide a job to the applicant No.2 under LARGESS Scheme on the basis of the orders of the Central Administrative Tribunal by quashing the impugned order being No.E/Resv. Cell/Court Case/Khalil/HWH dated 26.4.2019 passed by him;
- c) A direction may be given upon the respondent No.3 to revoke/rescind and/or cancel the impugned order dated 26.4.2019 passed by him and to provide a job to the applicant No.2 under LARGESS Scheme forthwith;
- d) Pass such other or further order or orders as to the Tribunal may deem fit and proper.;
- e) Leave may be granted to file this O.A. jointly under Section 4(v)(a) CAT Procedure Rule 1987."



2. The applicants have also filed M.A.No.350/476/2019 seeking permission to move the O.A. jointly under Section 4(5)(a) of C.A.T. (Procedure) Rules, 1987.

Having heard ld. counsel for both sides, the M.A. is allowed.

3. So far the O.A. is concerned, the applicants ^{have} assailed the speaking order dated 26.04.2019, which is extracted hereunder for clarity:-

"In compliance with the order of Hon'ble CAT/CAL dated 15/11/2018 in OA No.350/01144 of 2016, Khalil & Anr. -Vrs.-Union of India & Ors. I, being respondent No.03, have gone through the O.A.No.350/01144 of 2016 filed by the applicant, other relevant records available in the office along with rules on the subject and observe as under:-

Sri Khalil, Ex-Keyman under Sr. Section Engineer/P. Way/Naihati, the applicant of the subject Original Application, was working as Keyman under SSE/P. Way/NHT in Howrah Division in Pay Band-1, Grade Pay Rs.1800/- on substantive basis, submitted application for seeking Voluntary Retirement under LARGESS Scheme-1st Cycle/2011 on 17/06/2011. In that notification clearly mentioned for the last date of submission of application receiving date was 30.04.2011. But his application received by this office on 17.06.2011. It was late submission so his case was not taken under zone of consideration, as it should be submitted before 30.04.2011, Sri Khalil submitted his 2nd application on 24.08.2013 under LARGESS Scheme, 2nd Cycle-2013. On verification of his Service Record it was found that the age of Sri Khalil was 57 Years 01 month as per cut off date on 01.07.2013 being his date of birth is 01.06.1956. He was 01 month excess as per requirement i.e. age bracket of LARGESS Scheme was 50-57 years. Sri Khalil did not fulfil the prescribed eligibility conditions in respect of age bracket of LARGESS Scheme 50-57 years for voluntary retirement under LARGESS Scheme in terms of RBE No.131/2010.

Hon'ble CAT/CAL, under Orders dated 15.11.2018 and 11.10.2018 has disposed the OA with a direction upon the responding authority to issue a appropriate reasoned and speaking order keeping in view RBE No.150/2018 and 151/2018.

Railway Board under RBE No.150/2018 has issued clarification as under—

"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 LARGESS 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 LARGESS Scheme before 27/10/2017, (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 27/10/2017 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."

Subsequently, Railway Board issued RBE No.151/2018 wherein it has been observed that – "In supersession to Railway Board's letter No.E(P&A)I-2015/RT-43 dated 26.09.2018, it is stated that while the LARGESS Scheme continues to be on hold w.e.f. 27.10.2017 on account of various court cases to impart natural justice to the staff who have already retired under LARGESS 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."

In the instant case the request of Sri Khalil was not kept on hold due to any of the above reasons and the case was regretted as Sri Khalil did not match the age bracket 50-57 years of which is mandatory to be eligible to come under LARGESS Scheme 2nd cycle-2013 as per RBNo.131/2010. Therefore, the request of Sri Yean Ali S/o Sri Khalil i.e. the applicant of present OA cannot be considered.

Thus the order of Hon'ble CAT/CAL dated 15.11.18 and 11.10.2018 in respect of OA No.350/01144 of 2016 filed before Hon'ble CAT/CAL is disposed of."

4. The applicant has specifically contended that the notification issued by respondents for voluntary retirement under LARGESS Scheme mentioned the cut of date as 30.04.2011 whereas the applicant preferred application on 02.02.2011 i.e. prior to the cut of date. Yet his claim was turned down applying RBE 150/2018 considering his age as 57 years one month as per cut of date of 01.07.2013 applicable for the 2nd cycle of 2013 and not as per the date of his application i.e. 02.02.2011.

5. We heard the ld. counsel for the parties and perused the materials on record.

6. The respondents, as we find, have mentioned in the speaking order assailed in the present O.A. that last date for submission of application was 30.04.2011 and application of Khalil was received by the office on 17.06.2011. But the Annexure A/2 of the O.A. shows that



the application for LARGESS was received by the Office of the Permanent Way Inspector, Eastern Railway, Nalhati on 02.02.2011, therefore, the contention of the respondents that the applicant preferred application after cut of date does not seem to be in order.

7. Accordingly the speaking order is quashed and the matter is remanded back to the railway authorities to ascertain the date on which the applicant preferred his first application, the date of receipt of the same and consider the matter in the light of the latest decision of the Railway Board in RBE 39/2019 within three months from the date of receipt of a copy of this order.

8. The O.A. is accordingly disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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