

9.12
O.A.350/883/2019

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

In the matter of :

Original Applications No. 350 of
2019;

An application under Section 19 of the Administrative Tribunals
Act, 1985.

1. Lalmohan Guha, son of
Late Satyasadhan Guha, aged
about 54, years, by occupation
Service holder, residing at
Ward No.7, Plot No. 2809,
Village and Post Office -
Gaeshpur, District - Nadia, Pin
- 741234, West Bengal.

2. Debraj Guha, son of
Lalmohan Guha, aged about
23 years, residing at Ward
No.7, Plot No. 2809, Village
and Post Office - Gaeshpur,

District - Nadia, Pin - 741234,

West Bengal.

... Applicants

-Versus-

1. Union of India, though
the General Manager, Eastern
Railway, Fairlie Place, 17, N. S.
Road, Kolkata - 700001.

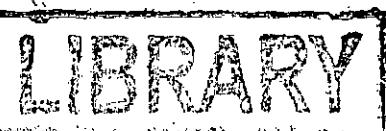
2. Chief Personnel Officer,
Eastern Railway, Fairlie Place,
17, N. S. Road, Kolkata -
700001.

3. The Divisional Railway
Manager, Eastern Railway,
Sealdah Division, Kolkata -
700014.

4. The Workshop Personnel
Officer, Kanchrapara
Workshop, Eastern Railway,
District - North 24 Parganas,
Pin - 743145.

5. The Senior Divisional
Personnel Officer, Howrah
Division, Eastern Railway,
Sealdah, Kolkata - 700014.

... Respondents



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/883/2019

M.A.350/474/2019

Date of order : 09.12.2019

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

**LALMOHAN GUHA & ANOTHER
VS.
UNION OF INDIA & OTHERS
(EASTERN RAILWAY)**

For the applicant : Mr. P. Sanyal, counsel

For the respondents : Mrs. C. Mukherjee, counsel

ORDER

Bidisha Banerjee, Judicial Member

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

"i) An order directing the respondent authorities to cancel, withdraw and/or quash the speaking order dated 19.03.2019 passed by the respondent No.....;

ii) An order directing the authorities to consider the prescribed application dated 24.06.2015 for ordering permanent retirement of the Applicant No.1 from service and in exchange to engage his son for a Railway job as per stipulation of the Scheme on expedite basis as per judgment dated 15.11.2018 passed by the Learned Tribunal;

iii) To file and prosecute this application under Rule4(5)(a) of the A.T.(Procedure) Rules, 1987 jointly since both the Applicant No.1 have prayed for same and similar relief arising out of same cause of action;

iv) To produce all the relevant papers and documents relating to the matter before the Learned Tribunal for proper adjudication;

v) Costs;

vi) To pass any such further order/orders as the Learned Tribunal may deem fit and proper."

2. The applicants have also filed M.A.No.350/474/2019 seeking permission to move the O.A. jointly under Section 4(5)(a) of C.A.T. (Procedure) Rules, 1987.



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

3. So far the O.A. is concerned, the applicants assailed the speaking order dated 19.03.2019 which is extracted hereunder for clarity:-

No. E/Con/court case/SRRS

Date : 19.03.2019

SPEAKING ORDER

Sub : O.A. NO. 1692 of 2016
Lalmohan Guha & Ors

-Vs.-
U.O.I. and Ors.

The Hon'ble Tribunal was pleased to dispose of the matter vide order dated 11.10.2018 inter-alia directing the Respondents to examine the cases of individual applicants in the O.A.'s, in the light of RBE 150/2018 and issue appropriate orders granting them benefits as they would be entitled to in accordance with RBE 150/2018 and Law, within three months from the date of communication of this order.

In the aforesaid matter the Hon'ble Tribunal was further pleased to pass an amended/ corrected order dated 15.11.2018 allowing the prayer of the applicants. In terms of the said order Para 3 and 4 of the Hon'ble Tribunal's order dated 11.10.2018 where 'RBE 150/2018' has been written now to be read as 'RBE 150/2018 and RBE 151/2018'.

Pursuant to the Hon'ble Tribunal's order dated 11.10.2018 and 15.11.2018 the applicant's Lalmohan Guha & Ors case have been examined in the light of RBE 150/2018 and RBE 151/2018.

The case in a short compass is that Sri Lalmohan Guha & Ors. (herein, petitioner no. 2, 3 & 4 are respectively Susanta Kar, Shankar Prasad, Ram Sarup Ram) preferred appeal dated 24.6.2015, 2.7.2015, 2.7.2015, 19.1.2015 praying for appointment of their sons Debraj Guha, Samarjit Kar, Akash Prasad & Rinku Ram under LARSGESS Scheme in terms of CPO's Sl. No. 122/2010.

Railway Board vide letter No. E[P&A]1-2013/FE-2/3, dated 01.12.2014 (RBE No. 131/2014) has communicated clarification regarding reckoning of 20/33 years of qualifying service in respect of Drivers/Gangmen, Specified Safety Categories in G.P. 1800/- and 1900/- under LARSGESS.

In the instant case, the representation dtd. 24.6.2015, 2.7.2015, 2.7.2015, 19.1.2015 of Sri Lalmohan Guha, Susanta Kar, Shankar Prasad, Ram Sarup Ram were under process but subsequently in terms of PCPO's letter No: E.393/0/3/SRRS/Pt.I dtd. 2.11.2017, the recruitment process under LARSGESS was kept on hold and subsequently the LARSGESS scheme was terminated w.e.f. 27.10.2017 in terms of RBE NO. 150/2018.

Railway Board vide letter No. E{P&A}1-2015/RT-43, dated 26.09.2018 (RBE No. 150/2018) gave instructions regarding termination of the LARSGESS Scheme in view of directions of Hon'ble High Court of Panjab and Haryana and the orders of Hon'ble Supreme Court of India in SLP (C) No. 508/2018 dated 08.01.2018. Relevant portion of para 2 of RBE No. 150/2018 are as follows:

Contd. P/2

"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 found medically fit. All such appointments should be made with the approval of the competent authority."

Since, Lalmohan Guha, Susanta Kar, Shankar Prasad, Ram Sarup Ram are still continuing in Railway Service and the entire process of LARSGESS has not been completed successfully, nor have their wards been sent for Medical examination, the prayer of the applicants dtd. 24.6.2015, 2.7.2015, 27.2015, 19.1.2015 for consideration of their wards for appointment under LARSGESS scheme does not come under the purview of RBE No. 150/2018 & 151/2018.

The undersigned is of the opinion that their cases do not merit special consideration. Hence, it is regretted.

Pursuant to the Hon'ble CAT/CAL's order dated 11.10.2018 and 15.11.2018 the representation of the applicants Lalmohan Guha, Susanta Kar, Shankar Prasad, Ram Sarup Ram is disposed of.

Simick
19/03/19
(Smt. E. S. Simick/IRPS)
Workshop Personnel Officer
Eastern Railway, Kanchrapara

4. At hearing it transpired that the Railway Board has issued a circular which governs the entitlement of all the applicants under LARGESS Scheme.

5. Ld. counsel for the applicants would submit that he would be satisfied if a direction is given upon the respondents to reconsider the matter in the light of the latest order of the Railway Board.

6. Accordingly, the speaking order dated 19.03.2019 which was issued pursuant to the RBE 150/2018 and RBE 151/2018 is quashed. The matter is remanded back to the authorities to consider the matter in the light of the RBE 39/2019 and in accordance with other relevant



rules within a period of 3 months from the date of receipt of a copy of this order.

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

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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