

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 291/481/2018
&
ORIGINAL APPLICATION NO. 291/482/2018**

Order reserved on 07.04.2021

DATE OF ORDER: 15.04.2021

CORAM

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

OA No. 291/481/2018

Smt. Saheto wife of Shri Ramesh Chand, aged about 58 years, resident of 97-A, Railway Colony, Bundi and presently working as Trackman, under Senior Section Engineer (P.Way), Bundi, West Central Railway, Kota Division, Kota.

....Applicant

Shri C.B. Sharma, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Indra Market, Jabalpur-482001.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota – 324002.
3. Senior Divisional Personnel Office, West Central Railway, Kota Division Kota-324002.

....Respondents

Shri M.K. Meena, counsel for respondents (through Video Conferencing).

OA No. 291/482/2018

Smt. Rukmani wife of late Shri Accha Ram, aged about 57 years, resident of 43-C, Railway Colony, Bhawani Mandi, Kota and presently working as Trackman-III under Senior Section Engineer (P.Way), Bhawani Mandi, West Central Railway, Kota Division, Kota.

....Applicant

Shri C.B. Sharma, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Indra Market, Jabalpur-482001.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota – 324002.
3. Senior Divisional Personnel Office, West Central Railway, Kota Division, Kota – 324002.

....Respondents

Shri M.K. Meena, counsel for respondents (through Video Conferencing).

ORDER

Per: Hina P. Shah, Judicial Member

With the consent of learned counsels for the parties O.A. No. 291/481/2018 and O.A. No. 291/482/2018 are taken up together for disposal as a common question of law and facts is involved in both the cases.

2. For the sake of convenience, the brief facts of O.A. No. 291/481/2018 (Smt. Saheto vs. Union of India & Ors.) are taken up. The O.A. No. 291/481/2018 has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

- "(i) That the entire record relating to the case be called for and after perusing the same the respondents be directed to allow appointment to the ward / son of the applicant with the benefits of the scheme to the applicant by quashing letter dated 10/08/2017 (Annexure-A/1) with all consequential benefits.
- (ii) That the respondents be further directed to extend benefits of the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) by way of retirement and appointment to ward / son of the applicant taking into consideration of educational qualification verified by the concerned board vide letter dated 29/08/2017 (Annexure-A/2) with all consequential benefits.
- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded."

3. The brief facts of the case (O.A. No. 291/481/2018), as stated by the applicant, are that she was initially appointed on 02.06.1994 and at present working as Trackman in West Central Railway,

Kota Division, Kota and has completed more than 20 years of service and her date of birth is 01.03.1960. The Railways vide letter dated 02.01.2004 (Annexure A/3) promulgated a Scheme in the name of Safety Related Retirement Scheme to the cadres of Drivers and Gangman and it has been provided under the Scheme that Driver and Gangman in the age group of 50 to 57 may seek retirement and on retirement under the Scheme suitable ward of the employee concerned will be considered for employment under the Respondents-Railways. Railways vide order dated 11.09.2010 (Annexure A/4) extended the said benefits to safety category of staff with Grade Pay Rs. 1800/- by reducing qualifying service from 33 years to 20 years within the age of 50-57 years and also modified the nomenclature of the scheme as Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) Scheme with Grade Pay Rs. 1800/-. As per Railway Board letter dated 24.09.2010, it was clarified that the order dated 11.09.2010 will also be applicable to Gangman/Trackman. Thereafter, Railway Board issued several clarifications. As per the Scheme, applicant applied for availing benefits of the Scheme by way of retirement and further providing appointment to ward in the cycle January 2017 to

June 2017 vide request letter dated 25.01.2017. As applicant was found eligible, so her ward was directed to go for screening vide letter dated 15.05.2017. The respondent No. 3 issued letter dated 09.06.2017 (Annexure A/13) with the list of those candidates who were found suitable in which name of applicant's ward was shown at Sl. No. 39. Thereafter, vide letter dated 10.08.2017, (Annexure A/1), ward of the applicant was treated as ineligible on the ground of education acquired from Urdu Education Board is not valid. The respondents verified the education certificates in the case of the applicant and also inquired the matter from Urdu Education Board and the said Board vide its letter dated 29.08.2017 (Annexure A/2) apprised the respondents that the Board is recognized, and also verified the documents, in spite of the said fact, the respondents kept the matter pending. Thus, respondents are not extending benefits to the applicant with appointment to her ward against the facts and circumstances, though several other Divisions of Railways have extended the said benefits in similar circumstances as also one Shri Hari Charan son of Shri Ram Gopal, Helper Khalasi was allowed appointment in Kota Division vide letter dated 30.08.2017. As per Gazette Notification of India dated

03.06.2015, (Annexure A/15), Urdu Education Board is recognized. As the action of the respondents in rejecting the claim of the applicant for retirement under LARSGESS Scheme is arbitrary and illegal, thus, the applicant has filed the present O.A. for redressal of her grievance.

4. After issue of notices, respondents have filed their reply admitting the facts which are matter of records and the fact that applicant and her ward applied under the scheme for phase January 2017 to June 2017 vide application Annexure A/11 and Annexure A/12. The son of the applicant was found eligible vide letter dated 10.08.2017 but since the qualification/education possessed by the son of the applicant from Urdu Education Board is not valid for the purpose of appointment in the Railway Department, candidature of the son of the applicant was rejected and he was found ineligible. It is further stated that South East Central Railway issued a letter dated 22.05.2009, (Annexure R/1), according to which qualification/certificates awarded/issued by the Boards of School Education accepted for the purpose of employment and higher education in Railways but in the said letter, the name of the Board from which the

son of the applicant possessed the educational qualification was not found. The son of the applicant possessed education from Urdu Education Board which is not recognized as per letter dated 22.05.2009, so his candidature came to be rejected by the respondents and as such he is not entitled for the benefits claimed in the present O.A. as the action of the respondents is just and legal.

5. The applicant has filed rejoinder denying the contention of the respondents. He further stated that son of the applicant was treated as ineligible on the ground of education from Urdu Education Board and respondents annexed letter dated 22.05.2009 at Annexure R/1 but did not consider the fact regarding verification of certificate by the concerned Board at Annexure A/2 and further Gazette Notification at Annexure A/15 which have been issued on 29.08.2017 and 03.06.2015, respectively. Annexure R/1 is only a communication of South East Central Railway whereas Gazette Notification issued in 2015 as well as Annexure A/2 clarifies that Urdu Education Board is a recognized Board. Therefore, there is no justification in the action of the respondents for rejecting the claim of the applicant without any base. It was further

stated that LARSGESS Scheme remained subjudice before various courts and the said scheme was finally terminated w.e.f 27.10.2017 and when applicant applied in the cycle January 2017 to June 2017, she was within age of 57 years and her son had also undergone screening and his educational certificates as well as character verification also took place prior to 27.10.2017 but rejected only on the ground of educational certificate. As per letter issued by Railway Board dated 12.07.2019, (Annexure A/16), the LARSGESS Scheme stood terminated w.e.f. 27.10.2017 and it was clarified that only those cases pertaining to cycle pending prior to 27.10.2017 be examined. Therefore, as the case of the applicant is well within time, present O.A. deserves to be allowed and impugned orders in challenge be quashed and set aside.

6. Heard learned counsels for the parties through Video Conferencing and perused the material available on record including the judgments cited by the parties.

7. The applicant as well as respondents have reiterated the facts stated earlier.

8. The only point which requires our consideration is whether case of the applicant can be re-opened in the light of Railway Board letter dated 27.10.2017 and Hon'ble Apex Court orders dated 06.03.2019, 26.03.2019 and 22.04.2019 and further such orders.

9. The factual matrix of the case is that as applicant being Trackman and had completed 20 years of qualifying service in Railways on said post, applied for benefits of LARSGESS Scheme by way of retirement and further providing appointment to her ward in the cycle January 2017 to June 2017 vide request dated 25.01.2017 and as applicant was eligible, so her ward was directed to go through screening vide letter dated 15.05.2017. The name of the applicant's ward found place at SI No 39 in the list of eligible candidates as per letter dated 09.06.2017 issued by respondent No.

3. Thereafter, vide letter dated 10.08.2017, ward of the applicant was found ineligible on the ground of education acquired from Urdu Education Board is not valid. It is true that respondents in order to verify the genuineness of the certificate issued by Urdu Education Board inquired with them and as per letter dated 29.08.2017, Urdu Education Board apprised the respondents that the said Board is recognized as per

Gazette Notification of Govt. of India dated 03.06.2015. But respondents vide letter dated 10.08.2017 (Annexure A/1) declared ward of the applicant as ineligible and found candidature of the ward of the applicant as unsuitable on the ground that Urdu Education Board is not recognized. It is seen that as per order dated 30.08.2017 (Annexure A/14), one Shri Haricharan S/o Shri Ram Gopal has been given appointment by Kota Division under LARSGESS Scheme, but there is no documents brought on record by the applicant to show that Haricharan has obtained certificate from Urdu Education Board and his case has been considered but case of applicant was rejected on the same ground.

10. On the other hand, respondents have relied on the letter dated 22.05.2009 (Annexure R/1) issued by Director Estt.(N)-II Railway Board, South East Central Railway on the basis of Railway Board letter No. E(NG)-II/2008/RR-1/35 dated 30.04.2009 vide RBE No. 76/2009 according to which qualifications/certificates awarded/issued by the Boards of School Education be accepted for the purpose of employment and higher education in

Railways. This letter dated 22.05.2009 clearly reveals that:

"The issue of recognition of certificates/qualification awarded by various Boards of School Education being operated in various parts of the country for the purpose of employment and higher education has, therefore, been examined in consultation with Department of Personnel & Training under the aegis of Ministry of Personnel, PG and Pensions, Ministry of Human Resources Development and Council of Boards of School Education (COBSE) in India and it is apprised that qualification/certificates awarded/issued by the following Boards of School Education be accepted for the purpose of employment and higher education on the railways".

It is seen that the said letter dated 22.05.2009 does not include name of Urdu Education Board and it is clear that the ward of the applicant possessed education from Urdu Education Board which is not recognized as per the said letter and, therefore, his candidature was rejected and he was not entitled to claim benefit under the LARSGESS Scheme.

11. In the meanwhile, as per letter of Railway Board letter dated 27.10.2017, it was directed to keep the scheme on hold till further orders. On 08.01.2018, the Hon'ble Apex Court in SLP (C) No. 508/2018 declined to interfere with the directions of the Hon'ble High Court. On 26.09.2018, the Railway Board in

compliance of the directions terminated the scheme w.e.f 27.10.2017 directing that no further appointment should be made under the scheme except in cases where employees have already retired under the 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 Railway Board letter dated 27.10.2017 though they had successfully completed the entire process and were found medically fit. On 28.09.2018, the Railway Board in supersession of its earlier orders dated 26.09.2018 issued order whereby it was directed that who had already retired under the scheme and appointment of those wards were not made due to various formalities, appointments of such wards can be made with the approval of the competent authority. Thereafter vide RBE No. 39/2019 dated 05.03.2019, the LARSGESS Scheme stood terminated w.e.f. 27.10.2017. It clearly observed that *the cases where the wards had completed all formalities including medical examination under LARSGESS Scheme prior to 27.10.2017 and were found fit, but the employees are yet to retire, it was directed that the matter is pending consideration before the Hon'ble Supreme Court and*

further instructions would be issued as per directions of the Hon'ble Supreme Court.

The said directions were upheld by the Hon'ble Apex Court and vide order dated 06.03.2019 observing that the said Scheme stands terminated and is no longer in existence. Accordingly, Railway Board vide its letter dated 12.07.2019 relying upon the order of the Hon'ble Supreme Court in WP (C) No. 219/2019 and 448/2019 directed that "*the matter has been considered in Board's office and it is decided that if individual representations are received in the light of the Hon'ble Apex Court's orders dated 06.03.2019, 26.03.2019 and 22.04.2019, the Railways should examine and dispose of each individual representation based on factual matrix of the case*".

12. We have observed that the case of the applicant stood rejected vide order dated 10.08.2017 (Annexure A/1) as he was declared ineligible on the ground that the certificate obtained by the ward of the applicant from Urdu Education Board is not recognised. The said certificate was also verified from Urdu Education Board which stated that it is recognized by GOI Gazette Notification. But the respondents have

rejected the claim of the applicant on the basis of the letter dated 22.05.2009 (Annexure R/1) which was issued as per Railway Board letter dated 30.04.2009 being RBE No. 76/2009 wherein the name of Urdu Education Board was not found. Though Urdu Education Board is recognized as per GOI Gazette Notification, but the case of applicant already stood rejected on 10.08.2017 on the basis of letter dated 22.05.2009.

13. Now coming to the question of the applicant that similarly situated persons have been considered for appointment cannot be a ground that the case of the applicant be considered, when applicant has not placed any documentary evidence to show that the said person also passed from Urdu Education Board and he was not considered. Also, even if there is any illegality committed if at all, the said illegality need not be repeated.

14. The other aspect of the said LARSGESS Scheme is that when the said scheme is no more in existence since 06.03.2019 and when applicant was already declared ineligible as on 10.08.2017 for whatsoever reasons, it is clear that his case cannot be re-opened

as the same was not covered by the Hon'ble Apex Court's order. Also as per the latest judgment dated 28.01.2021 passed by the Hon'ble Apex Court in WP (Civil) No. 1407/2019 in the case of Abhishek Kumar Jha & Ors. vs. Union of India & Anr., it has been observed that "*once the Scheme itself was withdrawn, no benefit whatsoever including one of consideration of representation could be afforded to any of the persons*". Accordingly W.P was dismissed. Also in another WP (Civil) No. 78 of 2021 in the case of Manjit & Ors. vs. Union of India & Anr. vide judgment dated 29.01.2021, the Hon'ble Apex Court has categorically held that: "*Union Government has with justification discontinued the scheme. The petitioners can claim neither a vested right nor a legitimate expectation under such a Scheme. All claims based on the Scheme must now be closed*". It was also observed that "*the grant of reliefs to the petitioners would only enable them to seek a back door entry contrary to the orders of this Court. The Union of India has correctly terminated the Scheme and that decision continues to stand*".

15. In our considered view, from what has been discussed by us in the above paras, it is clear that the

impugned order dated 10.08.2017 (Annexure A/1), does not deserve any interference as the same is just and proper and the Original Application filed by the applicant being devoid of merits deserves to be dismissed.

16. Accordingly, both the Original Applications i.e. O.A. No. 291/481/2018 and O.A. No. 291/482/2018 are hereby dismissed. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat