

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 15/2012

Monday, this the 13th day of August, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

N.Gopalakrishnan,
S/o Kochunnu,
Senior Gate Keeper, Southern Railway,
Ambalapuzha, Residing at: Valamparambil,
Ambalapuzha.P.O., Alapuzha-688 561. - Applicant

(By Advocate Mr M.P.Varkey)

v.

1. Union of India represented by
General Manager, Southern Railway,
Chennai-600 003.
2. Sr. Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Thiruvanthapuram-695 014.
3. Section Engineer (P.Way),
Southern Railway,
Alapuzha-688 001. - Respondents

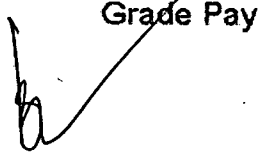
(By Advocate Mr Thomas Mathew Nellimoottil)

This application having been finally heard on 07.08.2012, the Tribunal on 13.08.2012 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

The respondents have issued an order dated 11-09-2010 under the Heading "Safety Related Retirement Scheme covering safety categories with Grade Pay of Rs 1,800" which reads as under:-



**"GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

RBE No.131/2010

No.E(P&A)I-2010/RT-2

New Delhi dated 11.09.2010

*The General Managers,
All Indian Railways.*

**Sub: Safety Related Retirement Scheme covering safety
categories with Grade Pay of Rs.1800/-**

Please refer to Board's letter No.E(P&A)I-2001/RT-2(KW) dated 02.01.2004 regarding introduction of Safety Related Retirement Scheme (SRRS) for Drivers and Gagmen.

2. It has now been decided to extend the benefit of Scheme to other safety categories of staff with a grade pay of Rs.1800/- p.m. The qualifying service has been reduced from 33 years to 20 years and the eligibility age group from 55-57 years to 50-57 years for seeking retirement under the Scheme in the case of Safety categories with Grade Pay of Rs.1800. The list of Safety categories covered under the scheme is enclosed as Annexure.

2.1 It has also been decided to modify the nomenclature of the Scheme as **Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS)**.

3. The condition of qualifying service (i.e 33 years) and age group (i.e. 55-57) for Drivers will remain unchanged.

4. It is also reiterated that the retirement of the employee be considered only if the ward is found suitable in all respects. Retirement of the employee and appointment of the ward should take place simultaneously.

5. The other terms and conditions of the Scheme will remain unchanged.

6. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

7. Kindly acknowledge receipt.

8. Hindi version will follow.

Sd/-
(Dharam Pal)
Deputy Director estt (P&A)II
Railway Board

No.E(P&A) I-2010/RT-2 New Delhi dated 11.09.2010

Copy to:

1. *The Principal Director of Audit, All Indian Railways.*
2. *The Deputy Comptroller and Auditor General of India(Railways), Room.No.224, Rail Bhawan, New Delhi (with 40 spares).*

Sd/-
(For Financial Commissioner/Railways).

No.E(P&A) I-2010/RT-2

New Delhi dated 11.09.2010

Copy to the FA&CAOs, All Indian Railways.

Sd/-
(Dharam Pal)
Deputy Director Estt(P&A) II,
Railway Board.

No.E(P&A) I-2010/RT-2

New Delhi dated 11.09.2010

Copy forwarded to:

1. *The General Secretary, NFIR (with 35 spares).*
2. *The General Secretary, AIRF (with 35 spares)*
3. *The Members of the National Council Departmental Council and Secretary, Staff Side, National Council, 13-C, Ferozeshah Road, New Delhi (with 90 spares).*
4. *The Secretary General, FROA.*
5. *The Secretary, RBSS Group A Officers Association R.No.402, Rail Bhawan (with 5 spares).*
6. *The President, Railway Board Class II Officers Association.*
7. *The Secretary General, IRPOF, Room No.341-C, Railway Board.*
8. *The President, Indian Railway Class II Officers Association.*
9. *The Secretary, Railway Board Ministerial Staff Association."*

2. The applicant, who was working as Senior Gate Keeper under the 3rd respondent, claims to have applied for retirement under the Voluntary Retirement Scheme, vide Annexure A 2 representation dated 06-11-2010 (the receipt of which is denied by the respondents).

3. The respondents have, on the basis of the demands raised by the Employees' Federations, decided that the retirement/recruitment process under the LARSGESS in respect of all safety categories of staff including Gangman in Grade pay of Rs 1,800 p.m. and Drivers/Loco Pilots may be done twice in a year as per the schedule calendared by them and the process of

retirement/recruitment may be started from July 2011 for the year 2011. The other terms and conditions of the Scheme were to remain the same. Order dated 29th March, 2011 refers. The Time Schedule reads as under:-

"Time Schedule"

(a) 1st half – January - June

- (i) Cut off date for reckoning eligibility of the employee and his ward : 1st January
- (ii) Last date for receiving the applications : 31st January
- (iii) Scrutinizing the applications : 1st February to 28th/29th February.
- (iv) Last date for withdrawal of application : 28th/29th February.
- (v) Conducting of Physical Test/Written Test etc. : 1st March to 30th April.
- (vi) 2nd chance to failure in written test in first chance giving a gap of 20-30 days : Upto 31st May
- (vii) Medical exam, acceptance of retirement/ joining the job by the wards : 1st to 30th June.

(b) 2nd half July - December

- (i) Cut off date for reckoning eligibility of the employee and his ward : 1st July
- (ii) Last date for receiving the applications : 31st July
- (iii) Scrutinizing the applications : 1st to 31st August
- (iv) Last date for withdrawal of application : 31st August
- (v) Conducting of Physical Test/Written Test etc. : 1st Sept. to 31st October.
- (vi) 2nd chance to failure in written test in first chance giving a gap of 20-30 days : Upto 30th November
- (vii) Medical exam, acceptance of retirement/ joining the job by the wards. : 1st to 31st December

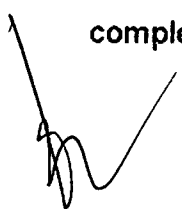


4. The applicant, thus, applied in the format prescribed on 01-06-2011 and the same was considered in July, 2011, whereby, on the basis of the fact that the applicant had crossed the age of 57 years as on 30-06-2011, the same stood rejected, the rejection order having been signed on 04-08-2011. According to the applicant, he came to know of the same only in December, 2011. The applicant has, therefore, filed this OA, seeking the following reliefs:-

- (a) Set aside the adverse remarks about age in A-3.
- (b) Hold that Annexure A-3 application is a part of Annexure A-2 application and; they shall be read together.
- (c) Declare that the applicant shall be deemed to have applied for voluntary retirement/employment to his son by Annexure A-2 dated 6.11.2010 and shall be processed so and; direct the respondents accordingly.

5. Respondents have contested the OA. As stated earlier, they have denied receipt of Annexure A-2 representation dated 06-11-2010 from the applicant. As regards merits, the respondents have contended that since the cut off date is prescribed and the application of the applicant was received in June, 2011, as of 30-06-2011 the applicant is above 57 years and as such, he would not be considered for the benefit under the LARSGESS scheme. The respondents have also relied upon another decision of the Tribunal in OA No. 939 of 2011.

6. The applicant in his rejoinder contended that the prescription of cut off date is delayed and the applicant cannot be denied the right that accrued to him by the scheme vide Annexure A-1 dated 11-09-2010. The denial of the receipt by the respondents of the earlier application dated 06-11-2010 has been refuted by the applicant. As regards the precedent relied upon by the respondents, the applicant has contended that the same is distinguishable as the applicant therein completed 57 years on 28-11-2010 itself.



7. Counsel for the applicant argued that here is a case where, there is an interregnum period between 11-09-2010 to 29-03-2011 in respect of which, the prescribed format could not have been pressed into service and the case of the applicant falls within that period. Hence, without applying the cut off date prescribed, the case of the applicant has to be considered.

8. Counsel for the respondents argued that since the applicant's original representation had not been received and the application dated 01-06-2011 is the lone application filed by the said applicant, whereby, the applicant as on 30-06-2011 has become overaged. And, as such, he cannot be considered for the benefit of the LARSGESS scheme.

9. Arguments were heard and documents perused. The scheme (LARSGESS) was introduced in respect of safety categories staff other than Drivers and Gangmen by order dated 11-09-2010. Annexure A-1 order indicates that in so far as safety categories of Drivers and Gangmen are concerned, they were covered by the scheme framed in 2004 itself. The terms and conditions contained in the 2004 scheme inter alia are as under: –

(a) under the scheme drivers and gangmen in the age group of 50 to 57 years may seek retirement.

(b) employment to a suitable ward of the employee whose application for retirement under the scheme is accepted, will be considered.

(c) the employees should have completed 33 years of qualifying service in order to be eligible for seeking retirement under the scheme.

(d) the request for retirement will be on a voluntary basis and there will be no element of compulsion on the part of the Administration.

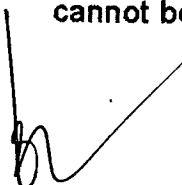
(e) applications from those who propose to retire under the scheme will be taken once in a year. The cut off date for reckoning



the eligibility of employees for seeking retirement under this scheme will be 30th June of the respective year. All conditions of appointment of the ward of such retirees such as age limits, educational qualifications etc will also be determined with reference to that date.

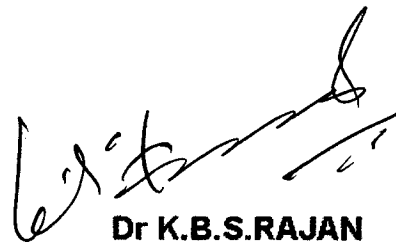
(f) the last date for submission of requests for retirement and consideration of a ward for appointment under the scheme, will be 31 July of the respective year.

10. The category of Gateman, both under operating department and Civil Engineering Department have been brought within the ambit of the scheme of 11-09-2010. The terms and conditions as contained in the 2004 scheme would equally apply to the applicant. Obviously, he derives the right to apply for retirement under the scheme only on the issue of Railway Board's letter dated 11-09-2010. His date of birth being 20-05-1954, he completed 57 years as on 19-05-2011. One of the conditions for making application is that applications from those who propose to retire under the scheme will be taken once in a year. The cut off date for reckoning the eligibility of employees for seeking retirement under this scheme will be 30th June of the respective year. According to the applicant he had applied for such voluntary retirement on 06-11-2010. However, the same is denied by the respondents. The said communication, vide Annexure A-2 does not contain the details of the ward, the authority/scheme under which the applicant seeks such VRS etc. There is no acknowledgment to substantiate that he had submitted the application. Even if the same be not available, his curiosity would have persuaded him to approach the appropriate authority to find out the position. The applicant applied on the prescribed proforma as on 01-06-2011, by which time he had already crossed 57 years. Hence, the contention of the applicant that he had submitted his initial representation on 06-11-2010 cannot be accepted.



11. The Tribunal in the other case, relied upon by the respondents, has observed that the applicant therein crossed 57 years in November, 2010 and he ought to have filed his application by 31st July, 2010 itself and since he had applied late, his case cannot be considered and the respondents cannot be faulted with for not considering the said application. In the instant case too, as the application, complete in all respects had been furnished after the applicant has attained 57 years. Further, he has not pursued his case promptly. His inquiry in December, 2011 from the Department by which time, he was 7 months past 57 does not indicate the seriousness with which he had taken up the steps.

12. There, thus, being no good ground to interfere with the decision of the respondents, the **OA is dismissed**. No cost.



Dr K.B.S.RAJAN
JUDICIAL MEMBER

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