

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 391 of 2012

Thursday, this the 25th day of July, 2013

CORAM :

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

S. Bommuraj, 56 years, S/o. Subha Nayakar,
Trackmate (erstwhile Gangmate), Madukarai,
Southern Railway, Palakkad Division,
Residing at House No. 42, Nanjai Koundapudur,
Pollachi Taluk, Achipetty Post, Tamil Nadu. ... Applicant

(By Advocate : Mr. U. Balagangadharan)

V e r s u s

1. The Senior Divisional Personnel Officer,
Southern Railway, Palakkad-678 002.
2. The General Manager,
Southern Railway, Park Town,
Chennai-600 003. ... Respondents

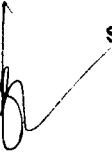
(By Advocate : Mr. Sunil Jacob Jose, SCGSC)

This O.A having been heard on 25.07.2013, the Tribunal on the same day delivered the following:

ORDER

Hon'ble Dr. K.B.S. Rajan, Judicial Member -

A fabulous safety related retirement scheme for Drivers and Gangman was introduced by the Railways vide Railway Board circular dated 2.1.2004 which takes into account the welfare of the retiring employee and his family on the one hand and the safety of general public on the other. According to this scheme the ward of Drivers and Gangman in the age group of 50 to 57 could be considered for employment by permitting Drivers and Gangman applying for voluntary retirement. Certain other attendant conditions were also stipulated in the scheme.



2. The aforesaid benefit of scheme which was made for the two safety categories of staff (Drivers and Gangman) was extended to other safety categories of staff with Grade Pay of Rs. 1,800/- per month and also reducing the qualifying service from the earlier 33 years to 20 years. The nomenclature of the scheme was also modified as Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS). Order dated 11.9.2010 refers. The said order included safety category posts in the civil engineering department viz. Gateman, Trolleyman and Keyman. Vide Annexure A3 dated 24.9.2010 the said scheme was made applicable to Gangman/Trackman also subject to fulfillment of identical conditions stipulated for other safety categories. By yet another order dated 28.6.2011 the Railway Board permitted expansion of the scheme even to those in the said safety categories whose grade pay was Rs. 1,900/-. Annexure A6 refers.

3. The Headquarter office of Southern Railway addressed a communication to the Railway Board vide Annexure A7 dated 18.7.2011 stating that in so far as civil engineering department is concerned the post carrying Rs. 1,900/- as Grade Pay in the safety category is Gangmate. However, this is duly 100% by promotion quota. Clarification was therefore, sought whether the post with Grade Pay of Rs. 1,900/- would be eligible to avail the benefits of the scheme. In response to the aforesaid Annexure A7 communication dated 18.7.2011, the Railway Board has vide letter dated 18.8.2011 stated as under:-

"Government of India
Ministry of Railways
(Railway Board)

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

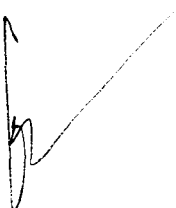
New Delhi, dated 18.01.2011

The General Manager,
Southern Railway,
Chennai.

Sub.: Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS).

Ref.: Your Railway's letter No. PB/CS/30/LARSGESS dated 18.07.2011.

The issues raised in your above referred letter have been considered in



Board's Office and are clarified as under:-

(i) Board's letters of even number dated 28.06.2011 and 15.07.2011 may be perused wherein it has been clearly stated that the words of the employees seeking retirement under the Scheme are to be considered for appointment only in the lowest recruitment Grade Pay of Rs. 1800/- except wards of Drivers who would continue to be considered for appointment in GP 1900/- as ALP.

(ii) The instructions contained in Board's letter No. E(P&A)I-2001/RT-2 (KW) dated 15.4.2005 in respect of constitution of Assessment Committee of 3 SAG officers are already available.

(iii) The list of Safety categories covered under the Scheme is already circulated as Annexure to Board's letter of even number dated 11.09.2010, which may be strictly adhered to.

26.08.2011

Sd/-
(Anita Gautam)
Joint Director Estt. (P&A)
Railway Board"

4. The applicant holding the post of Trackmate is one of the aspirants for availing of the aforesaid LARSGESS scheme and accordingly he has made an application dated 12.7.2011. The respondents vide Annexure A10 order dated 29.11.2011 negated his request. In fact earlier the name of the applicant was included for voluntary retirement under the aforesaid scheme to enable his ward to consider for appointment. That decision was reversed by Annexure A10 order. The applicant has, therefore, challenged Annexures A6, A8 and A10 orders and other for the following reliefs:-

- "i) Issue orders to set aside Annexure A.10 as legally and factually unsustainable;
- ii) Issue orders to set aside Annexure A.8 clarification as legally and factually unsustainable;
- iii) Issue orders to set aside Annexure A.6 to the extent it seeks to limit the application of LARSGESS to the categories specified in;
- iv) Issue orders commanding the first respondent to consider application of the applicant for Voluntary retirement under LARSGESS and consider granting employment to his son Shri Jagatheesan under the aforesaid Scheme.
- v) Such other reliefs that the Hon'ble Tribunal deem fit in the facts and circumstances of the case."

5. The respondents have contested the OA. According to them the post of Trackmate of civil engineering department is not brought under the ambit of LARSGESS as is evident from Annexure A2 order dated 11.9.2010. According to them, both the post of Gangmate/Trackmate get the work done through Gangman/Trackman and as such they have no chances of developing the physical problems as detailed in the very scheme dated

2.1.2004 (Annexure R1).

6. Counsel for the applicant has submitted that the impugned Annexure A8 order refers only to the safety categories covered under Board's letter dated 11.9.2010. This letter of 11.9.2010 Annexure A2 did not contain the post of Gangman/Trackman but the same has been added by Annexure A3 order dated 24.9.2010. The counsel further submitted that, the respondents have focused their entire attention only to order dated 11.9.2010 without taking into account the subsequent order dated 24.9.2010 which was also issued by the very Railway Board. The post of Trackmate is a promotional post of Trackman and so is the case of Gangmate which is the promotional post for Gangman. It is after undergoing the strenuous and arduous work as a Gangman/Trackman these Gangmate or Trackmate get their respective promotions. The necessity to supervise more than one Gangman by visiting the spot and ensuring proper work by Gangman/Trackman is not less sizable. In any event by strenuous hard work as Gangman/Trackman the damage to the physical body is already done and the Railway Board also has accordingly included other safety categories up to Grade Pay of Rs. 1,900/- to be covered by the scheme. As such the applicant is entitled to the benefit which was originally included but unjustifiably reviewed and negated to the applicant.

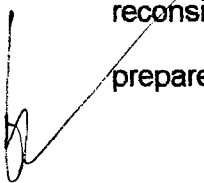
7. Counsel for the respondents submitted that the name of Trackmate does not figure in any of the provisions of the scheme or circulars relating to such scheme.

8. Arguments were heard and documents perused. Admittedly the posts of Gangman and Trackman have been included within the scheme of LARSGESS. These are safety category posts with Grade Pay of Rs. 1,800/-. The next promotion is Gangmate/Trackmate with Grade Pay of Rs. 1,900/- and the applicant is one such Trackmate drawing Rs. 1,900/- as Grade Pay. All other conditions contained in the scheme dated 2.1.2004 as amended have all been fulfilled by the applicant which is evident from the fact that the applicant was once included in the list of voluntarily retiring personnel. It is only thereafter on the ground that the applicant's post of Trackmate is not included in the scheme that his name has been deleted. When the Railway Board has included other safety category posts with Grade Pay

of Rs. 1,900/- as being eligible for the benefit of the scheme, any higher post to Gangman/Trackman with the said Grade Pay cannot be excluded for a person getting a promotion only on account of his efficient performance of official duties in the feeder grade. During the course of such performance all the physical infirmities as specified in the scheme dated 2.1.2004 would have affected such efficient Gangman/Trackman. Thus when efficient Gangman/Trackman gets promoted, refusal to extend the scheme to them would thoroughly demoralize the employees. Instead a person who is less efficient and who is not promoted as Gangmate or Trackmate would become eligible for this better benefit. In our considered view when the Railways have included other safety categories and the post of Gangman and Trackman have been included as safety categories their promotional post of Gangmate/Trackmate should also be treated as safety categories only as they are necessarily to supervise the Gangman and Trackman respectively. Again the ordeals and sufferings presently undergone by the Gangman/Trackman have already been undergone by the Gangmate/Trackmate.

9. In view of the above we are of the considered view that the matter needs consideration by the Railway Board to specify such safety category posts which happened to be the promotional posts to the post as contained in the letter dated 11.9.2010 as amplified by 24.9.2010. It will be appropriate if the Railway Board itemizes all other safety category posts which are promotional posts to the safety category posts as contained in Annexures A2 and A3 and indicate which of them would qualify for the benefit of the scheme. This drill may have to be undertaken by the Railway Board keeping in view our considered opinion expressed above with respect to Gangmate/Trackmate.

10. Initially the Railway Board was one of the parties but by virtue of order in MA No. 1182 of 2012 the Railway Board has been deleted from the array of respondents. Nevertheless the respondent No. 2 i.e. the General Manager, Southern Railway shall prepare a statement of case and forward the same to the Railway Board for reconsideration. A copy of this order shall also accompany such statement of case prepared by the General Manager.

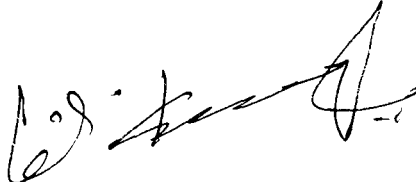


11. The OA is disposed of accordingly. The time calendared for the General Manager to prepare the statement of case is two months while the time calendared for the Railway Board for consideration is again two months, thereafter. If the post of Trackmate is included for the benefit of LARSGESS scheme the claim of the applicant shall subsist even if he crossed the age of 57 years (as applicant as on the date of filing of this OA is already 56).

No costs.

 (Dated, the 25th July, 2013)

K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



DR. K.B.S. RAJAN
JUDICIAL MEMBER

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