

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH****OA. No. 060/00685/2014****Reserved on: 11.03.2015****Pronounced on: 18.3.2015.****CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J)**

Chander Bhukan, son of Ram Dhan, Gateman, resident of Gate No. 137-C, Nanak Chand, Manakpur, Tehsil Kalka, District Panchkula (Haryana).

..... Applicant

Versus

1. Union of India through the Secretary to Government of India, Ministry of Railway, Baroda House, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The General Manager (Personnel), Northern Railway, Baroda House, New Delhi.
4. The Senior Section Engineer (P.way), Northern Railway, Chandigarh.
5. The Assistant Divisional Officer, Northern Railway, Rajpura.
6. The Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt.

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7. The Divisional Railway Manager (Personnel), Ambala Cantt.

..... Respondents

Present: Sh. Dhirender Chopra, counsel for the applicant.

Sh. R.T.P.S. Tulsi, counsel for the respdts.

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- “(i) That, the impugned letter No. 220/E/LARSGESS/Rectt./July-12/MPP/UMB/C.B./Loose, dated 16.8.2013 (Annexure P-10) be quashed and set aside. It be declared that the ward of the applicant being eligible for being appointed under the LARSGESS.
- (ii) That the applicant be held entitled to all the consequential benefits.
- (iii) That the respondents be directed to give appointment to the ward of the applicant in view of the LARSGESS.”

2. The background of the matter is that the applicant is working as Gateman, Gate No. 137-C, Nanak Chand, Manakpur, Tehsil Kalka, falling with the Northern Railway, Ambala Division. The Railway Board vide letter No. E(P&A) I-2010/RT-2 dated 29.3.2011 (Annexure A-1) decided that retirement/recruitment

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process under the LARSGESS may be done twice in a year. The applicant submitted his application under LARSGESS on 08.07.2012. Forms A & B, both dated 08.07.2012 (Annexures A-2 and A-3) bear the seal of the office of the Senior Section Engineer (P. Way), Northern Railway, Chandigarh in acknowledgement of the application having been received. When the result pertaining to the selection of July, 2012 was declared, the applicant learnt that his name neither figured in the list of selected candidates nor in the list of the rejected candidates. The applicant took up the matter with the higher authorities and learned that his application was never forwarded to the office of the Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt till 31.7.2012 which was the last date for submission of the application. The application was sent by the Senior Section Engineer (P.way), Northern Railway, Chandigarh after the last date and was received in the office of the Senior Divisional Personnel Officer, Ambala Cantt on 24.6.2013. It has further been stated that it was the duty of the Senior Section Engineer (P. way), Northern Railway Chandigarh to forward the application of the applicant to the Divisional Secretary, Ambala well within the time. But having failed to do so, a false plea is

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being taken that the applicant never submitted his application before 31.7.2012. In this manner, the future of the ward of the applicant is being tried to be put on suspense. The applicant should not suffer for the mistake committed by the Officer of the Northern Railway, rather he should be given an opportunity to compete with the similarly situated candidates. Hence this OA.

3. In the written statement filed on behalf of the respondents, it has been stated that the OA involves interpretation of the Safety Related Retirement Scheme (SRRS) framed by the Railway Board as per letter dated 02.01.2004/RBE No. 4/2004, extended and renamed as LARSGESS in the letter dated 11.09.2010/RBE No. 131 of 2010 and further modified by letter dated 29.03.2011/RBE No. 42 of 2011 (Annexures R-1, R-2 and R-3). The scheme is a package consisting of invitation to an offer for seeking voluntary retirement by a railway employee holding defined safety category post and simultaneous recruitment of his ward under the rules for direct recruitment from the open market as mentioned in para 2(iii),(x),(xii) etc. of the Scheme at Annexure R-1 read with para 5 of the extended Scheme at Annexure R-2. The clause 2(x) of the scheme at Annexure R-1 provides that "The

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discretion to accept the request for retirement will vest within the Administration depending upon the shortage of staff, physical fitness and suitability of the ward...". This leaves no room of doubt that applicant cannot claim the benefit of the scheme as a legal right. Even voluntary retirement is subject to sole discretion of the respondents and fulfillment of prescribed conditions of retirement/recruitment under the policy and the extant rules.

4. It has further been stated that Senior Section Engineer, Chandigarh – respondent No. 4 vide his letter dated 18.07.2013 (Annexure R-4), informed respondent No. 6 that the applicant failed to enclose the requisite paper alongwith his application dated 08.07.2012 and belatedly submitted the same after the due date i.e. July, 2012 and resubmitted the same on 24.6.2013 alongwith Caste Certificate which is signed by the official only on 19.02.2013 (Annexure R-5).

5. Arguments advanced by the learned counsel for the parties were heard whereby the learned counsel for the applicant asserted that the application of the applicant under LARSGESS has been submitted well in time, but the same had not been forwarded to the office of the Senior Divisional Personnel Officer, Northern

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Railway, Ambala Cantt in time and hence, the ward of the applicant was denied consideration under the LARSGESS. On the other hand, learned counsel for the respondents stated that incomplete application form was submitted by the applicant and hence, the same could not be forwarded to the office of the Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt.

6. We have given our careful consideration to the matter. It is seen that the application filed by the applicant under LARSGESS was not considered since it did not reach the office of the Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt before the last date prescribed for receipt of such applications. Hence, the applicant whose date of birth is 11.4.1956 continued in the service of the Railways and is still serving. The LARSGESS is a package that provides for voluntary retirement of the applicant employee and appointment of his ward if considered eligible under the Scheme simultaneously. Since the applicant has continued in service beyond the upper age limit of 57 years prescribed under the LARSGESS (he is nearly 59 years of age now), he cannot be considered eligible under LARSGESS at this stage.



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Hence, there is no merit in this OA and the same is rejected. No costs.

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(RAJWANT SANDHU)
MEMBER(A)

B. A. Aggarwal
(DR. BRAHM A. AGRAWAL)
MEMBER(J)

Dated: / 8 . 3 . 2015

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