

OA. 060/00068/2014

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA. 060/00068/2014

Chandigarh, this the 14th day of July, 2014

**CORAM:HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A.AGRAWAL, MEMBER(J)**

1. Vinay Kumar, son of Sh. Mohan Lal, age 25 years, resident of Village Bhool Chack Kullian, Post Office, Ferozpur Kalan, Tehsil and District Pathankot, Punjab.
2. Rajinder Kumar, son of Sh. Gian Chand, age 29 years resident of Attalgarh Post Office, Mukerian District Hoshiarpur, Punjab.

.....Applicants

**BY ADVOCATE: MR. K.B. SHARMA PROXY COUNSEL FOR
MR. D.R. SHARMA**

VERSUS

1. Union of India through the Secretary, Ministry of Railways, Govt. of India, New Delhi.
2. The Senior Divisional Personnel Officer, Northern Railway, Ferozepur Division, Ferozepur.
3. The Divisional Railway Manager, Northern Railway, Ferozepur Division, Ferozepur.

...RESPONDENTS

BY ADVOCATE: MR. R.T.P.S. TULSI

Ms _____

ORDER

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

1. Through the present OA, direction has been sought to the respondents to give appointment to the applicants under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) as the respondents had issued the list of eligible candidates of Ferozepur Division who opted for Safety Related Retirement Scheme under LARSGESS 2010 vide Annexures A-5 and A-6 and in these lists, the name of the applicant No. 1 and his father figured at Sr. No. 337 and the name of the applicant No. 2 and his father figured at Sr. No. 315 as "Eligible".

2. In the grounds for relief, it has been stated that when the fathers of the applicants applied for benefit under LARSGESS in the year 2010, they were within the age limit and fulfilled the qualifying service criteria and it was the respondents who had delayed the case of the applicants for the appointment. It has further been stated that Railway Board's letter No. E(P&A)I-2010/RT-2 dated 29.3.2011 cannot have retrospective effect and the mentioning of any cut-off date for reckoning eligibility of the

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employee in the year 2011 as per letter dated 29.3.2011 should be made applicable prospectively and not for those employees who had already applied in 2010.

3. In the written statement filed on behalf of the respondents, it has been stated that the relief claimed in the OA is based on 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 11.9.2010/RBE No. 131 of 2010 and further modified by letter dated 29.3.2011/RBE No. 42 of 2011 (Annexures R-1, R-2 and R-3 respectively). Preliminary objection has been taken that 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 applicants as wards of railway employees are not entitled to invoke the jurisdiction of the Tribunal. The acceptance of application for retirement of the railway employee is a condition precedent for the

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employment and suitability of his ward under para 2 (iii),(x), (xii) & (xiii) of the Scheme at Annexure R-1. Railway employee is an essential party for claiming the benefit under the Scheme at Annexures R-1 to R-3. The OA has been filed only by the wards of the Railway employees and the Railway employees are not even co-applicants. The OA is therefore not maintainable and is liable to be summarily dismissed as the ward of the applicant is not entitled to invoke the jurisdiction of this Tribunal.

4. It is further stated that the key object of the Scheme is to ensure the safety of train operations and track maintenance as specified in para 2(i) of the Scheme at Annexure R-1. The Scheme requires that entire process be completed within the time schedule. Any claim or extension of time schedule will be a serious deviation from the prescribed policy of Railway Board as the employee would then retire closer to his superannuation contrary to the conditions precedent including the clauses prescribing age group up to 57 years. The clarification issued by the Railway Board vide letter dated 18.4.2013 (Annexure R-4) contain a clear direction to ensure all retirement/recruitment pertaining to a particular cycle are completed within the prescribed schedule of the cycle. Applicants

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are trying to mislead this Tribunal by placing reliance on RBE No. 72/2013 at Annexure A-9 in as much as these instructions are made applicable from July-December, 2013 whereas non-applicants; father of applicant No. 1 (Sh. Mohan Lal – DOB: 19.06.1954) and No. 2 (Sh. Gian Chand – DOB: 10.06.1954) had become overage – above 57 years on 01.07.2011. It has further been asserted that the validity of RBE No. 42/2011 at Annexure R-3 has been upheld by the coordinate Madras Bench of this Tribunal in the case of A. Arumugam & Others Vs. Chairman Railway Board in a bunch matter, OA No. 1522 to 1527/2011 dated 18.6.2012 (Annexure R-5).

5. Arguments advanced by the learned counsel for the parties were heard when they reiterated the facts and grounds taken in the OA, Rejoinder and written statement respectively and hence, the same are not repeated here.

6. It is evident from the material on record that the fathers of the applicants had crossed the age of 57 years on the cut-off date of 30.6.2011 and hence, the applicants were not entitled to be considered for selection under LARSGESS in the year 2011 and thereafter. Besides, under the LARSGESS, the first round of

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selections in the Northern Railways were held in 2011 and there was no selection in 2010. Hence, the applicants' claim of being considered as eligible on the basis of the age of their fathers as on 30.6.2010 is without merit. Moreover, similar claim as raised by the applicant, has already been rejected through order dated 3.7.2014 in OA No. 694/HR/2013. Hence the present OA is also rejected in the same terms.

7. No costs.

**(RAJWANT SANDHU)
MEMBER(A)**

**(DR. BRAHM A.AGRAWAL)
MEMBER(J)**

Dated: July 14th, 2014
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