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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00282/2014 &
M.A.No.060/00437/2015

Date of Decision : 21.5.2015
Reserved on : 12.05.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

Palla, aged 56 years, s/o Sh. Harshi, R/o Railway Quarter No.L-21/B,
Railway Colony, Rajpura, District Patiala (Punjab), Trackman under Senior
Section Engineer (P.Way) Patiala.

Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ambala Cantt.
3. Senior Divisional Personnel Officer, Northern Railway, Ambala Cantt.

Respondents

Present: Mr.Karnail Singh, counsel for the applicant in OA & MA
Mr. R.T.P.S.Tulsi, counsel for the respondents

ORDER

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

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

- "8.2 Quashing of the impugned order dated 28.01.2014 issued by respondent no.3 (Annexure A-1).
- 8.2 Directing the respondent for consideration of applicant for appointment of his son under LARSGESS Scheme (Annexure A-1)."



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2. This is the second round of litigation. Earlier the applicant had filed OA No.1372/PB/2013 which was disposed of through order dated 08.10.2013 directing the respondents as follows:-

"In view of the above noticed facts and in the interest of justice, this OA shall stand disposed of with a direction to the respondents to the competent authority amongst the respondents to take a view qua claim of the applicant, within a period of two months from the date of receipt of a certified copy of this order. The decision taken shall be conveyed to the applicant. If ultimate result is not favourable to the applicant, he would be at liberty to challenge the same as per rules and law, if so advised."

Since the order dated 08.10.2013 was not complied with timely, CP No.060/00006/2014 was filed by the applicant which was disposed of on 13.02.2014, in view of the statement of the respondents that the order dated 28.01.2014 had been passed by the respondents in pursuance of the order dated 08.10.2013. While disposing of the CP, liberty was allowed to the applicant to challenge the order passed by the respondents on original side if so advised. Hence, the applicant has filed the present OA.

3. In the grounds for relief it has, inter-alia, been stated as follows:-

- i) It is admitted by the respondent vide its order dated 28.01.2014 regarding the entry in the service record with respect to the screening but taking false and wrong plea of non availability of record for which applicant may not be allowed to suffer. A copy of the extract of the service record is annexed as Annexure A-1.

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- ii) From the service record of the applicant, it is evident that Assured Career Progression Scheme (ACP benefit) has already been granted to the applicant. A copy of the extract of the service record is annexed as Annexure A-2.
- iii) The lien of the applicant was shown to be fixed with the respondent (Annexure A-2).
- iv) The applicant was fulfilling all the terms and conditions contained in the LARSGESS, hence the applicant is/was eligible to be considered for the appointment of his ward. That is why the application of the applicant was forwarded by Senior Section Engineer P.Way Rajpura to respondent no.3.
- v) In accordance with the Govt. of India's orders the respondents are / were duty bound to verify the service record of the Govt. servant and correctly recorded in the service book. Accordingly the entry of screening done and grant of ACP benefits and fixation of lien etc was done by the Gazetted Officer.

4. In the written statement filed on behalf of the respondents, it has been stated that the impugned order at Annexure A-1 is just and legal. The applicant was screened as per result declared vide letter dated 24.04.2014 (Annexure R-1) and the applicant's date of screening had been fixed as 05.01.1997. The applicant was not eligible under the LARSGESS wherein the minimum qualifying service was 20 years. It has further been stated that in the absence of any supporting document in favour of the alleged screening date of 1989 at Annexure A-2, the matter was investigated as per details given in the impugned order at Annexure A-1. In view of the order of the competent authority that the case of the applicant be called for screening and if found eligible he be given benefit at par with his juniors in terms of Railway Board instructions

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contained in RBE No.52/1997, the orders have been complied with in terms of letter at Annexure R-1. Applicant has not challenged this letter in the present OA. The grant of ACP benefit prior to the issue of letter relating to date of screening of the applicant is of little consequence. It is settled law that the applicant is not entitled to claim relief which has been wrongly granted or based on wrong date of screening. Also that administrative error can be corrected within 30 years as per settled law.

5. Later additional reply was filed on behalf of the respondents, wherein it has been stated that as per directions dated 08.10.2013 of this Tribunal in OA No.1372/PB/2013 efforts were made to trace the record for verifying the authenticity of the entry regarding screening in 1989. On 05.12.2013, applicant was given opportunity to give details or documents in relation to his date of screening, but the applicant was unable to do so. No documentary proof was found in support of this entry. On the contrary following documents were found which do not support the entry regarding screening in 1989.

- "a. Letter No.220-E/15/L(Const)/CL-IV screening dated 08.09.1994 (Annexure R-2) shows that the applicant was called for screening in the year 1994 but was not considered as he had less number of working days in his credit as per SI.No.48 of Annexure 'C' to the Annexure R-2.
- b. Letter No.220-E/CL-Post Facto/GM Approval dated Jan/1996 at Annexure R-3 shows that the applicant's name appears at SI.No.471 of list of Casual Labour of Construction Organization (Civil Wing) who were engaged after 01.01.1981.

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- c. Performa for screening to be held in the cadre of Khalasi/Gangman for cut of date 30.11.1995 of IOW Bareilly at Annexure R-4 shows that the applicant remained unscreened till 30.11.1995."

In view of the directions of the Tribunal dated 08.10.2013 in OA No.1372/PB/2013 read with RBE No.52/1997, the respondents passed the order dated 24.04.2014 (Annexure R-1) and the applicant's date of screening was fixed at par with his junior with consequential benefits w.e.f. 05.01.1997. It is also stated that the applicant had been wrongly granted financial upgradation w.e.f. 18.07.2009 and this aspect was being reviewed in the light of the orders at Annexure R-1.

6. Arguments advanced by the learned counsel for the parties were heard, when learned counsel for the applicant reiterated the content of the OA and the rejoinder. He stated that the applicant had been allowed financial upgradation on the basis of his date of screening of 18.07.1989 and the respondent Department could not withdraw the same. He also cited "Haryana Power General Corporation Limited & Ors. Vs. Harkesh Chand & Ors." to support this contention that ACP was allowed only on the basis of regular service and since the applicant had been allowed the 1st ACP as per the copy of his service book appended with the OA, the applicant had to be treated as having been screened in July, 1989 and the benefit under LARSGESS could not have been denied to him.



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7. Learned counsel for the respondents stated that the document which had been annexed as Annexure A-2 had various entries signed by one Sh. Medhok, Senior Civil Engineer (Construction). In fact the screening of the applicant could not have been done by the Construction Division and the financial upgradation under ACP Scheme has wrongly been allowed to the applicant. The Department was entitled to correct its mistake and the show cause notice had been issued for withdrawal of ACP benefit that had wrongly been allowed in 2001. Since the applicant had not completed 20 years of service as required under LARSGESS, the claim of the applicant for voluntary retirement and simultaneous employment of his son had been rejected.

8. We have given our thoughtful consideration to the matter. From the pleadings of the parties and the material on record, it is quite clear that the applicant has not been able to establish his claim of having been screened in July, 1989. Moreover, he has not impugned the order dated 24.04.2014 through which the applicant was treated as screened w.e.f. 05.01.1997 and granted consequential benefits accordingly. Since the applicant was screened and treated as regular employee w.e.f. 05.01.1997 while he applied under LARSGESS in 2010, the applicant had not completed the mandatory period of 20 years to be eligible under LARSGESS and his application was rightly rejected by the respondents.

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Hence, there is no merit in this OA and the same is dismissed. MA No.060/00437/2015 is also disposed of accordingly.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(SANJÉEV KAUSHIK)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 21/5/2015.

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