

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.32/2014

Order reserved on 19.01.2017
Order pronounced on 24.01.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

Jugashwar
S/o Sh. Bhuskari
R/o Q.No.G-1/E, Mithai Pul
Railway Colony
Delhi – 06.

... Applicant

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India
Through the General Manager
Northern Railway, Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway, Delhi Division
State Entry Road
New Delhi.
3. The Assistant Divisional Engineer
Northern Railway, Delhi Sarairohilla. Respondents

(By Advocate: Sh. Shailendra Tiwari)

O R D E R

By V. Ajay Kumar, Member (J):

The applicant, filed the present OA, seeking the following relief(s):

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not considering the request of the applicant for seeking his voluntary retirement and appointment of his son under Liberalized Active Retirement Scheme for Guaranteed Employee for Safety Staff is totally illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to consider the request of the applicant for his voluntary retirement and appointment of his son under Liberalized Active Retirement Scheme for Guaranteed Employee for Safety Staff by taking into account the cutoff date as on 01.01.2012 with all consequential benefits.

(ii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation.”

2. A Division Bench of this Tribunal dismissed this OA along with a batch of identical OAs by its common order dated 16.01.2015, by following a decision in OA No.2424/2013 dated 13.01.2015 whereunder the LARSGESS Scheme was declared as ultra vires of Articles 14 and 16 of the Constitution of India.

3. However, on quashing of the said Order dated 16.01.2015 by the Hon’ble High Court of Delhi in WP(C) No.9353/2015 and batch dated 11.12.2015 and remitting the OA for fresh hearing, the present OA is listed before us.

4. Today, when the matter is taken up for fresh hearing, it is noticed that the facts and law involved in this OA are identical to the facts in OA No.4138/2016 and batch, which was disposed of in terms of the Judgement dated 27.04.2016 in **Kala Singh and Others v. Union of India & Others** of the Hon’ble High Court of Punjab & Haryana, on 23.12.2016 by a Coordinate Bench of this Tribunal, therefore, this OA also is liable to be disposed of in terms of the orders passed in the said OA.

5. In the circumstances and for parity of reasons, this OA is also disposed of in terms of the orders passed in OA No.4138/2016 and batch, dated 23.12.2016. For the sake of convenience, the Order in OA No.4138/2016, is extracted below:

"In this batch of OAs, the applicants are the employees of the Railways or their wards and seeking granting of certain benefits under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short, LARSGES Scheme). The said Scheme was formulated by the respondents in the year 2004 and modified in the year 2010 enables 2nd category job of Railway employees to seek Voluntary Retirement after they reach the age group of 55-56 years (as amended from time to time) or on completion of qualifying service of 33 years (as amended from time to time) and they can seek appointment of their wards in their place.

2. The Constitutional validity of the LARSGES Scheme came up before various Benches of this Tribunal, including the Principal Bench at New Delhi, and the Scheme was quashed by the Principal Bench at New Delhi by holding that the same is unconstitutional. However, the said decision of the Principal Bench at New Delhi was set aside and remanded back, by the jurisdictional High Court, on technical grounds. Similar is the situation with certain other bench decisions on the validity of the Scheme.

3. On a reference, a Full Bench of this Tribunal in OA No.1540/2013, dated 07.08.2015 in **R. Krishna Rao v. Union of India & Others**, upheld the legality and validity of the LARSGES Scheme.

4. When the aforesaid batch of OAs were taken up for hearing, it is brought to our notice that in CWP No.7714/2016, the Hon'ble High Court of Punjab & Haryana at Chandigarh, by its Judgement dated 27.04.2016, in **Kala Singh and Others v. Union of India & Others**, by holding that the LARSGES Scheme does not stand to the test of Articles 14 and 16 of the Constitution of India and that the policy is a device evolved by the Railways to make back-door entries in public employment and brazenly militates against equality in public employment, directed the Railway authorities that hitherto before making any appointment under the offending policy, its validity and sustainability be re-visited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment.

5. It is also brought to our notice that a reference was made to Railway Board seeking guidelines in reference to the aforesaid orders of the Hon'ble High Court of Punjab and Haryana wherein the LARSGES Scheme was held to be violative of Articles 14 and 16 of the Constitution of India.

6. Since the learned counsel, could not place any other Order of the Hon'ble High Court of Delhi, which is the jurisdictional High Court or any other High Court or Supreme Court, contrary to the above decision of the Hon'ble High Court of Punjab & Haryana, we are bound by the said decision.

7. In the circumstances, and for the aforesaid reasons, all the OAs are disposed of in terms of the Order dated 27.04.2016 in CWP No.7714/2016 of the Hon'ble High Court of Punjab & Haryana in **Kala Singh & Others v. Union of India & Others** (supra) No costs."

Accordingly, the OA is disposed. No costs.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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