

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.4293/2016
MA No.3831/2016

New Delhi this the 23rd day of December, 2016

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)**

1. Ashish Dhiman, Aged-21 Years,
S/o Sh. Suresh Kumar,
Working as Helper Khallasi/Chg. Under
Senior Section Engineer (Electric) Chg.
Northern Railway, Hazarat Nizamuddin,
R/o H. No.341, Man Colony,
J.P. Nagar, Karnal (Haryana)

2. Suresh Kumar, Aged 57 years,
S/o Shri Jaishi Ram,
Retired Helper Khallasi/Chg.
From Northern Railway, Hazarat Nizamuddin,
R/o Vill. Kadana, PO Rehan,
Tesh. Nurpur,
Distt. Kangra (HP).

-Applicants

(By Advocate:Shri 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 Divisional Personal Officer,
DRM's office, Northern Railway, Delhi Division,

State Entry Road,
New Delhi.

4. The Senior Section Engineer (Electric)
Northern Railway Station, Hazarat Nizamuddin,
New Delhi.

-Respondents

ORDER (ORAL)

By Mr.V.Ajay Kumar, Member (J):

MA No.3831/2016

This MA filed for joining together is allowed.

OA No.4293/2016

Heard the learned counsel for the applicants. It is submitted that the respondents considered the request of the applicants under the LARSGES Scheme and appointed the 1st Applicant as Khalasi Helper. However, all of a sudden, vide Annexure A/1 Show Cause Notice dated 09.09.2016, the respondents stated that applicant was not actually qualified as per the terms of the LARSGES Scheme, and called for explanation why the appointment of the 1st Applicant shall not be cancelled. The applicant submitted his explanation to the said Show Cause Notice on 21.12.2016

2. The applicant is questioning the said action on various grounds by way of this OA.

3. We have disposed of number of OAs pertaining to the LARSGES Scheme today.

4. In the circumstances and for parity of reasons, this OA is disposed of in terms of the orders passed in OA No.2643/2013 and batch, dated 23.12.2016. For the sake of convenience, the Order in OA No.2643/2013 and batch, 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 appearing for both sides, 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). MAs, if any, pending are also disposed of accordingly. No costs."

5. In view of disposal of the batch of the OAs pertaining to the LARSGES Scheme, the present OA is also disposed of in terms of the said orders. However, the respondents shall not pass any adverse orders till they take a final decision as per the aforesaid orders. No costs.

Issue Dasti.

(Ms.Praveen Mahajan)
Member (A)

(V.Ajay Kumar)
Member (J)

/kdr/