

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**OA/021/731/2017
Date of Order: 14.09.2018**

Between:

1. N. Prakash,
S/o. Late Chandraiah,
Aged about 58 year, Helper (retd.),
South Central Railways,
Kazipet, Warangal District,
R/o. Kazipet, Warangal District.
2. N. Manohar, S/o. N. Prakash,
Aged about 37 years, Un-employee,
R/o. Kazipet, Warangal District.

.... Applicants

AND

1. Union of India rep. by its
General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad – 500 071.
2. The Chief Personnel Officer,
Headquarters Office, Personnel Branch,
4th Floor, Rail Nilayam,
Secunderabad – 500 071.
3. The Divisional Railway Manager,
South Central Railway, Personnel Branch,
4th floor, Sanchalan Bhavan,
Secunderabad – 500 071.
4. The Senior Divisional Personnel Officer,
South Central Railway (BG),
Secunderabad.
5. The Senior Section Engineer (C&W),
South Central Railway,
Kazipet Junction,
Warangal District.

.... Respondents

Counsel for the Applicants : Mr. P. Lingeswara Rao

Counsel for the Respondents : Mr. M. Venkateswarlu,
SC for Railways

CORAM :

THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR. B.V. SUDHAKAR, MEMBER (A)

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The first applicant joined the service of the Indian Railways as a Khalasi. Over the period, he was promoted to the post of Helper. The Indian Railways evolved a scheme, known as 'Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff', for short - LARSGESS. That scheme is meant for conferring benefits to the Safety Staff, such as premature retirement, paving the way for their children to be appointed subject to certain conditions. The purpose of the Scheme is to ensure that such departments are handled by persons with physical ability.

2. The first applicant intended to retire from service and to confer appointment under LARSGESS Scheme to his son. The Scheme contemplates holding of an examination for the probable beneficiaries thereunder. The applicant's son participated in the written test held on 25.05.2012. The results were declared and he emerged as successful.

However, his case was not considered on the ground that the first applicant has been imposed punishment of withholding of increment. Communication in this behalf was issued on 31.01.2013.

3. The first applicant preferred an appeal against the order of punishment and the appellate authority passed an order dated 20.02.2014 dropping the charge as well as the punishment. Thereafter, the request for benefit under the Scheme was renewed. Through a letter dated 04.05.2017, the Respondents informed that the first applicant will retire from service on 31.05.2017, on attaining the age of superannuation and since he crossed the age of 57 years, the applicants cannot be conferred the benefit under the Scheme. Hence, this O.A.

4. The applicants contend that the benefit was denied to them without any basis and whatever may be the circumstances under which it was denied at the initial stage, at least when the appellate authority has dropped the punishment against the first applicant, the same ought to have been taken into account and the benefit ought to have been extended.

5. Shri P. Lingeswara Rao, learned counsel for the applicants submits that once the order of punishment passed against the first applicant was set aside in appeal, the respondents are under obligation to extend the benefits under the Scheme.

6. Shri M. Venkateswarlu, learned Standing Counsel argued the matter at length, on the basis of instructions. He contends that once the first applicant

had retired from service, the benefit under LARSGESS Scheme cannot be extended to the applicants. He placed reliance on the judgement dated 13.06.2018 passed by the Hon'ble Madras High Court in W.P.No.2289/2018 which arose out of O.A. No.1134/2011 from the Madras Bench of the Tribunal.

7. The Scheme is evolved with a clear objective of reducing the impact of old age of the employees in Safety related departments. The employees in such departments are given opportunity to take voluntary retirement and to pave way for their children to get into employment, subject however to certain conditions such as clearing examination and other requirements.

8. That the first applicant was entitled to seek benefit is beyond any pale or doubt. The application made by him was processed and his son, the 2nd applicant was permitted to participate in the written examination held on 25.05.2012. The 2nd applicant emerged at the top of the list. However, when it came to the question of giving appointment, the same was denied to him on the ground that the first applicant was served with an order of punishment.

9. Had the situation remained the same, the applicants would not have been entitled for any benefit. However, there is substantial change in the situation with regard to the applicants. The appeal preferred by the first applicant was allowed by the appellate authority on 20.02.2014. With that, the impediment for the appointment of the second applicant stood removed. When a request was made in this behalf, an order was passed on 04.05.2017

contending that the request of the first applicant for proceeding on voluntary retirement to confer appointment to his son could not be processed for various reasons. It was mentioned that the first applicant was about to reach the age of superannuation. Such a plea holds good in case the application was made for the first time after the employee crossed the age of 57 years. In this case, the application was made way back in the year 2011, when the first applicant was much below the stipulated age. Even as on 20.02.2014, when the appeal was allowed, he was within the limits of age. Therefore, the only ground mentioned in the impugned order dated 04.05.2017 cannot be sustained.

10. In the judgement passed by the Hon'ble Madras High Court, it was a case where the application under LARSGESS Scheme was made after the employee retired from service. Such is not the case here.

11. We, therefore, allow the O.A. and direct that the Respondents shall appoint the 2nd applicant under the LARSGESS Scheme. However, he shall be entitled for emoluments only from the date of appointment, but he shall be placed in the seniority list, strictly in accordance with his rank in the selection process. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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