

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

OA No. 549/2013 with MA No. 320/2013,
OA No. 550/2013 with MA No. 321/2013,
OA No. 557/2013 with MA No. 319/2013,
OA No. 340/2015, OA No. 351/2015, OA No. 352/2015,
OA No. 792/2015 with MA No. 99/2018, OA No. 341/2016
OA No. 820/2016 with MA No. 116/2017,
OA No. 17/2017 with MA No. 191/2017,
OA No. 09/2017 with MA No. 18/2017 & MA No. 273/2017,
OA No. 362/2017 with MA No. 276/2017, OA No. 55/2018 and
OA No. 142/2018 with MA No. 169/2018
OA No. 714/2013 with MA No. 418/2016 & MA No. 400/2014

DATE OF ORDER: 27.04.2018

CORAM

HON'BLE MR. UDAY KUMAR VARMA, ADMINISTRATIVE MEMBER
HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER

OA No. 549/2013 with MA No. 320/2013

Bhim Singh S/o Shri Bhanwar Lal, aged about 56 years, R/o Shri Ram Nagar, Ward No. 7, Maliyon Ka Mohalla, Phulera and presently working as Gateman, Gate/LC No. 1, Phulera Junction, Phulera District Jaipur.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur – 302017.
2. Railway Board, through its Chairman, Rail Bhawan, New Delhi.
3. Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur – 302006.

....Respondents

Mr. Tanveer Ahmed, counsel for respondents.

OA No. 550/2013 with MA No. 321/2013

Kana Ram S S/o Shri Sharwan Lal, aged about 51 years, R/o Plot No. 175, Mishra Colony, Phulera and presently working as Traffic Khallasi, Railway Station Bhawasa, District Jaipur.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur – 302017.
2. Railway Board, through its Chairman, Rail Bhawan, New Delhi.
3. Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur – 302006.

....Respondents

Mr. Tanveer Ahmed, counsel for respondents.

OA No. 557/2013 with MA No. 319/2013

Kailash Chand K S/o Shri Kalyan, aged about 56 years, R/o Bajrang Colony, Ram Lal Ka Garage, Madanganj, Kishangarh and presently working as Gate-man, Railway Station Kishangarh, District Ajmer.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur – 302017.
2. Railway Board, through its Chairman, Rail Bhawan, New Delhi.
3. Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur – 302006.

....Respondents

Mr. Tanveer Ahmed, counsel for respondents.

OA No. 340/2015

1. Rajendra Kumar S/o Shri Ram Prasad, by caste Bairwa, aged about 28 years, R/o Pandit Pura Ki Dhani, Bandikui Jagir, Distt. Dausa.
2. Shri Ram Prasad S/o Sarwan, by caste Bairwa, aged about 56 years, R/o Pandit Pura Ki Dhani, Bandikui Jagir, Distt. Dausa, presently working as Trolley man under PWI, Alwar, Rajasthan.

....Applicants

Mr. P.N. Jatti, counsel for applicants.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.

2. Divisional Railway Manager, North Western Railway, Jaipur.

....Respondents

Mr. P.K. Sharma, counsel for respondents.

OA No. 351/2015

1. Sita Ram Yadav S/o Shri Molik, aged about 30 years, R/o Village and Post Bika Ka Bas, Bhainslana, Tehsil Phulera, District Jaipur.
2. Shri Molik S/o Govind Ram, aged about 57 years, R/o Village and Post Bika Ka Bas, Bhainslana, Tehsil Phulera, District Jaipur, presently working as Gangman No. 30, PWI Phulera, Distt. Jaipur.

....Applicants

Mr. P.N. Jatti, counsel for applicants.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jaipur.

....Respondents

Mr. P.K. Sharma, counsel for respondents.

OA No. 352/2015

1. Raju Lal S/o Mangi Lal, by caste Dhobi, aged about 21 years, R/o Village Dhani Sawai Ganj, Post Kustala, Via Sawai Madhopur, Distt. Sawai Madhopur.
2. Mangi Lal S/o Rampal, by caste Dhobi, aged about 21 years, R/o Village Dhani Sawai Ganj, Post Kustala, Via Sawai Madhopur, Distt. Sawai Madhopur, presently working as Khalasi in Railway Carriage Office, Jaipur.

....Applicants

Mr. P.N. Jatti, counsel for applicants.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jaipur.

....Respondents

Mr. P.K. Sharma, counsel for respondents.

OA No. 792/2015 with MA No. 99/2018

Ram Karan R.S. S/o Shri Ram Sahaya, aged about 57 years, R/o in front of Rajesh Pilot Mahavidhalaya, Bandikui Dausa, presently working on the post of Loco Pilot (Passenger) at Bandikui.

....Applicant

Mr. R.K. Sharma, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Head Quarter Office Near Jawahar Circle, Jagatpura, Jaipur.
2. Divisional Railway Manager, North Western Railway, Power House Road, Jaipur.
3. Chief Medical Superintendent, Central Hospital, North Western Railway, Power House Road, Jaipur.
4. Chief Personnel Officer, Head Office, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
5. Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.

....Respondents

Mr. Indresh Sharma, counsel for respondents.

OA No. 341/2016

1. Allahbux S/o Abdul Gaffur, aged about 57 years, R/o Rang Talab, Nai Basti, Gali No. 2, Kota, presently working as Senior Points Man O/o D.T.I. O/o Divisional Railway Manager, Kota.
2. Sabir Ali S/o Allahbux, aged about 35 years, R/o Rang Talab, Nai Basti, Gali No. 2, Kota.

....Applicants

Mr. P.N. Jatti, counsel for applicants.

VERSUS

1. Union of India through the General Manager, West Central Railway, Jaipur.
2. Divisional Railway Manager, West Central Railway, Kota.
3. Assistant Personnel Officer, West Central Railway, Kota.

....Respondents

Mr. Indresh Sharma, counsel for respondents.

OA No. 820/2016 with MA No. 116/2017

1. Rohtas S/o Shri Mathura, aged about 58 years, by caste Saini, R/o Gram Rupawas, Post Maonda R.S., Tehsil Neemkathana, District Sikar (Raj.)

(presently posted as Gangman/Trackman in Engineering Department in the office of Sr. Section Engineer, (PW), North Western Railway, Neemkathana, District Sikar).

2. Hemant Saini S/o Shri Rohitashwa, aged about 21 years, by caste Saini, resident of Gram Rupawas, Post Maonda R.S., Tehsil Neemkathana, District Sikar (Raj.).

....Applicants

Mr. Ajay Gupta, counsel for applicants.

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Railways, Rail Bhawan, New Delhi.
2. Chairman, Railway Board, Rail Bhawan, Raisina Marg, New Delhi.
3. Divisional Railway Manager, North Western Railway HQ., Near Jawahar Circle, Jaipur (Raj.).

....Respondents

Mr. Y.K. Sharma, counsel for respondents.

OA No. 17/2017 with MA No. 191/2017

Sanjeev Kumar S/o Shri Kanwar Singh, aged about 31 years, R/o Village-Chandawas & Post Rewari, District Rewari (Haryana), Applied for the post of ALP (Railway), NWR, BKN (G-C)

....Applicant

Mr. M.S. Raghav, counsel for applicant.

VERSUS

1. Union of India through Secretary to the Government of India, Ministry of Railway, Rail Bhawan, New Delhi – 110001.
2. Director General (Railway Health Services), Ministry of Railway, Railway Board, New Delhi.
3. General Manager, North Western Railway, Jaipur.
4. Divisional Rail Manager, Divisional Office, North Western Railway, Bikaner.

....Respondents

Mr. Anupam Agarwal, counsel for respondents.

OA No. 09/2017 with MA No. 18/2017 & MA No. 273/2017

Laxman S/o Shri Suwa, aged about 56 years, R/o Village & Post Kishangarh, Ajmer and presently working as Track Man, under Senior Section Engineer (P.Way), Kishangarh, North Western Railway, Ajmer.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur – 302017.
2. Railway Board, through its Chairman, Rail Bhawan, New Delhi.
3. Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur – 302006.

....Respondents

Mr. Y.K. Sharma, counsel for respondents.

OA No. 362/2017 with MA No. 276/2017

1. Meda Nitesh Kumar S/o Surtan, aged about 25 years, R/o Poonam Colony, Kota Junction, Kota (Raj.).
2. Surtan S/o Chuniya, aged 60 years, R/o Poonam Colony, Kota Junction, Kota (Raj.) working in West Central Railway, Kota on the post of Class IV employee.

....Applicant

Mr. Pradeep Singh, proxy counsel for
Mr. Rajvir Sharma, counsel for applicant.

VERSUS

1. Union of India through its General Manager, West Central Railway, Jabalpur, M.P.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.

....Respondents

Mr. Chetan Meena, proxy counsel for
Mr. M.K. Meena, counsel for respondents.

OA No. 55/2018

Anand Kumar Sharma S/o Shri Pratap Singh Mudgal, age 59, R/o E-151, Railway Colony, Gandhi Nagar Road, Bharatpur, PIN Code-321001, Rajasthan, is employed in Railway Department, posted on the post of Senior Helper (Power) (Group D employee) at Railway Power House Bharatpur, Kota Division (D.R.M. Kota).

....Applicant

Mr. Deshraj Kalwania, counsel for applicant.

VERSUS

1. Assistant Personnel Officer (Electricity), Western Railway, D.R.M. Office, Kota, PIN Code-324002.
2. Senior Regional Manager Electricity Engineering (General) Kota Division Electricity Engineering (Construction), D.R.M. Office Kota, PIN Code-324002.

3. Divisional Railway Manager, Western Railway, Kota, D.R.M. Office, Kota, PIN Code-324002.
4. Senior Divisional Personnel Officer, Kota Western Central Railway, D.R.M. office, Kota, Raj. PIN Code-324002.

....Respondents

Mr. Chetan Meena, proxy counsel for
Mr. M.K. Meena, counsel for respondents.

OA No. 142/2018 with MA No. 169/2018

1. Ratna S/o Tihiya, aged about 58 years, working as Gangman, Railway Department, at present posted at Ahmadabad, resident of Tulapura, Near Kota Junction, Kota, Rajasthan.
2. Dhanraj Solanki, aged about 27 years, son of Shri Ratna Tihiya, resident of Tulapura, Near Railway Junction, Bhimganj Mandi, Kota.

....Applicants

Mr. Pradeep Singh, proxy counsel for
Mr. Rajvir Sharma, counsel for applicants.

VERSUS

1. Union of India through its General Manager, West Central Railway, Jabalpur, M.P. – 482001.
2. Divisional Railway Manager, West Central Railway, Kota, Rajasthan – 324001.

....Respondents

Mr. Anupam Agarwal, counsel for respondents.

OA No. 714/2013 with MA No. 418/2016 & MA No. 400/2014

Vijay Singh S/o Shri Surja, aged about 56 years, R/o Village Ucchain, Tehsil Roopbas, District Bharatpur.

....Applicant

Mr. Arun Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Railway Board, Government of India, Ministry of Railways, New Delhi.
2. The Deputy Director Establishment (P&A) II, Railway Board, Government of India, Ministry of Railways, New Delhi.
3. The General Manager, West Central Railway, IIIrd Floor Annex Building, Opp Indira Market, Jabalpur (M.P.) – 482068.
4. The Divisional Railway Manager, West Central Railway, DRM's Office Station Road Kota Junction, Kota (Raj.) Pin- 324002.

5. The Divisional Railway Manager (Establishment), West Central Railway, DRM's Office Station Road Kota Junction, Kota (Raj) Pin- 324002.

....Respondents

Mr. Chetan Meena, proxy counsel for
Mr. M.K. Meena, counsel for respondents.

ORDER (oral)

Per: MR. UDAY KUMAR VARMA, ADMINISTRATIVE MEMBER

OA No. 549/2013, OA No. 550/2013, OA No. 557/2013, OA No. 340/2015, OA No. 351/2015, OA No. 352/2015, OA No. 792/2015, OA No. 341/2016, OA No. 820/2016, OA No. 17/2017, OA No. 09/2017, OA No. 362/2017, OA No. 55/2018, OA No. 142/2018 and OA No. 714/2013 are being disposed of together as in all these cases, the applicants are claiming the benefit of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) formulated by the Railways. In all these cases, the Railways have not made final offer of appointment under this Scheme to the applicant(s).

2. An identical issue has been considered and decided by this Bench of the Tribunal very recently in O.A. No. 291/288/2012 (Rajendra Singh & Anr. vs. Union of India & Ors.) with 68 connected OAs. vide order dated 23rd March, 2018. This Bench of the Tribunal has disposed of the bunch of said OAs with the observation that after re-visitation of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) by the Railways in terms of the directions issued by the Hon'ble Supreme Court, if any party feels aggrieved, the matter can be re-agitated in accordance with law before the competent forum having jurisdiction over the matter.

3. The above order of the Tribunal was, in turn, based on the judgment in CWP No.7714/2016 – **Kala Singh and Others vs. Union of India and Ors.** passed by the Hon'ble High Court of Punjab and Haryana, where an order dated 27.04.2016 was passed as under: -

"We have heard counsel for the petitioners and are of the view that the very foundation of their claim, namely, the Safety Related Retirement Scheme, prima facie, does not stand to the test of Articles 14 and 16 of the Constitution of India. This policy is a device evolved by the Railways to make backdoor entries in public employment and brazenly militates against equality in public employment.

Since we have not called upon the Railways at this stage, suffice it would be to dismiss the writ petition with a direction to the Railway Authorities that hitherto before making any appointment under the offending policy, let its validity and sustainability be revisited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment."

This order of the Hon'ble High Court of Punjab and Haryana was assailed by the Railways before the Hon'ble Supreme Court in SLP No. 4482/2017 which came to be dismissed on 06.03.2017. While dismissing the said SLP, the Hon'ble Supreme Court also observed that the Railways are not debarred from moving the High Court of Punjab and Haryana for ventilating their grievances as they were not heard while passing the order dated 27.04.2016. Thus, a Review Application was filed by the Railways before the Hon'ble High Court of Punjab and Haryana and the same was dismissed on 14.07.2017. After dismissal of the Review Application, the Railway Board issued a circular dated 27.10.2017 and decided to keep the LARSGESS on hold till further orders. It was also decided to file a Special Leave Petition before the Hon'ble Supreme Court in order to assail the validity of the order passed by the Hon'ble High Court of Punjab and Haryana. Accordingly, all the appointments under the LARSGESS

have been put on hold. Simultaneously, the Railways preferred SLP No.87470/2017 before the Hon'ble Supreme Court assailing the validity of the order passed by the Hon'ble High Court of Punjab and Haryana. The said SLP has been dismissed by the Hon'ble Supreme Court on 08.01.2018 and the Hon'ble Supreme Court has declined to interfere with the order passed by the Hon'ble High Court of Punjab and Haryana. While dismissing the said SLP, the Hon'ble Supreme Court has also issued directions to the Railways to take a conscious decision in the matter within a period of six weeks. It has further been observed in the said order that if any party is affected by the decision taken, such party may take remedy against the same in accordance with law. The order dated 08.01.2018 passed by the Hon'ble Supreme Court is also reproduced hereasunder:-

"Heard learned counsel for the parties.

Delay condoned.

Since the direction in the impugned order is only to re-visit the Scheme in question, no interference is called for at this stage. The petitioner(s) may take a conscious decision in the matter within a period of six weeks from today.

If any party is affected by the decision taken, such party may take remedy against the same in accordance with law.

The Special Leave Petition is, accordingly, disposed of.

Pending application (s), including application for intervention, shall also stand disposed of."

4. It was also informed to this Tribunal that no decision pursuant to the order dated 08.01.2018 passed by the Hon'ble Supreme Court has been taken by the Railways upto now and that Railways are still in the process of taking a decision as per the orders passed by the Hon'ble Supreme Court.

5. It may be mentioned in the passing that earlier this Tribunal while relying upon the order dated 27.04.2016 passed by the Hon'ble High Court of Punjab and Haryana and the order dated 06.03.2017 passed by the Hon'ble Supreme Court in SLP No. 4482/2017 had dismissed some of the Original Applications and validity of the said orders was assailed before the Hon'ble High Court of Rajasthan at Jaipur in different D.B. Civil Writ Petitions including DB CWP No. 3847/2017. While disposing of those Writ Petitions, the Hon'ble High Court of Rajasthan had remitted back the matters to this Tribunal while referring the orders of Hon'ble High Court of Delhi and Hon'ble High Court of Gujarat wherein it was directed to decide the matter in accordance with law. Now since the Hon'ble Supreme Court has issued directions to the Railways to take a conscious decision after re-visiting the whole Scheme and the Railways itself has put on hold the policy which has been held to be violative of Articles 14 and 16 of the Constitution of India, no relief can be granted to the applicants in all these OAs before us.

6. In view of the above discussion, the present bunch of the OAs are also disposed of in terms of order dated 23rd March, 2018 passed by this Bench of the Tribunal in O.A. No. 291/288/2012 (Rajendra Singh & Anr. vs. Union of India & Ors.) with 68 connected OAs. (supra) with the observation that after re-visitation of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) by the Railways in terms of the directions issued by the Hon'ble Supreme Court, if any party feels aggrieved, the matter can be re-agitated in accordance with law before the competent forum having jurisdiction over the matter.

7. Ordered accordingly. No costs.

8. All pending MAs in these cases have also been rendered infructuous.

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

(UDAY KUMAR VARMA)
ADMINISTRATIVE MEMBER

Kumawat