

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA 350/01859/2015

Date of Order: 20.9.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

1. Abdul Basir, son of late Moslim Ali, worked as Trackman/SE/PW/MLDT, residing at Village-Khosbastala, Post-Uttar Chandipur, P.S.-Manicktala, District-Malda, Pin Code- 732203.
 2. Nasim Ali, son of Abdul Basir, aged about 23 years, residing at Village-Khosbastala, Post- Uttar Chandipur,
-Applicants.

-versus-

1. Union of India, through the General Manager, Eastern Railway, Fairlie Place, 17, N.S. Road, Kolkata-700001.
 2. The Divisional Railway Manager, Eastern Railway, Malda, P.O. and P.S. Malda, District- Malda, Pin Code- 732142.
 3. The Sr. Divisional Personnel Officer, Eastern Railway, Malda, P.O. and P.S. Malda, District- Malda, Pin- 732142.
-Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel
Ms. P. Mondal, Counsel

For the Respondents : Mr. MK Bandyopadhyay, Counsel

ORDER

Per Ms. Jaya Das Gupta, AM:

The applicant had approached before C.A.T. under Section 19 of AT Act, seeking the following reliefs:

"8(a) Office order being No. E/LARSGESS-2012/Notification/MLDT/Pt-1 dated 05.11.2015 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Malda is not tenable in the eye of law and as such the same should be quashed.

on

(b) An order do issue directing the respondents to grant an appointment in favour of the applicant no. 2 under the "Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff".

(c) An order do issue directing the respondents authorities to allow the applicant No. 1 to retire from his post with all benefits admissible under Rule pursuant to his application dated 26.07.2012 made under "Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff".

(d) Pass such further order/orders and/or direction/directions as your Lordships may deem and proper."

2. It is the case of the applicant that the applicant No. 1 the father was working as Trackman. The applicant No. 1 applied for his voluntary retirement under the LARSGESS Scheme. From Annexure A-1 at page 18 of the OA the date of application is not clear. Purportedly, the applicant had applied on 27.06.2012. The date of receipt on 28.06.2013 has been overwritten as 28.06.2012. It also appears from the same Annexure A-1 that the date of retirement is 31.07.2015. He has approached C.A.T. on 03.12.2015.

3. Earlier C.A.T. had passed an order on 24.08.2015 in OA. 350/01178/2015, the operative part of which is set out below:

"4. Be that as it may, we are not concerned with the allegations made by the applicants against the Railways. One fact is clear that the Full Bench of C.A.T. declared the constitutional validity of the Largess Scheme and accordingly the C.A.T. would direct the Railway authority to consider the individual merit of the applicants and scrutinize the same and proceed further with the matter subject to the decision, if any that might emerge from the Hon'ble Court or the Hon'ble Supreme Court in this regard. The case of the applicants be considered within a time frame of two months from the date of receipt of a copy of this order.

The OAs are disposed of. No costs."

4. As directed by C.A.T. the impugned order dated 05.11.2015 was passed which is set out below:

"Sub: Retirement/recruitment under LARSGESS.

Ref: Hon'ble CAT/Calcutta's order in OA No. 350/01178/2015.

In pursuance to the judgment passed by Hon'ble CAT/Calcutta in the OA No. referred above, your service record has been scrutinized.

Staff in specified safety category post with grade pay Rs. 1800/- within the age group 50 to 57 years and minimum 20 years of qualifying service in specified safety category post eligible for retirement/recruitment under LARSGESS scheme.

WMC

Your date of birth is recorded in service record as 06.07.1955. As you have already passed the prescribed upper age limit of 57 years and already retired on 31.07.2015 on superannuation, your voluntary retirement as well as appointment of your ward under the scheme cannot be acceded to."

5 On going through the impugned order it appears that the applicant as stated by him earlier in Annexure A-1 at page 18 of the OA, had already retired on 31.07.2015. He approached this C.A.T. on 03.12.2015 i.e. after he has already retired. At least if he had approached C.A.T. before his normal date of retirement the OA could have been considered but we cannot apply the LARSGESS Scheme to a person who is seeking benefit under the scheme of voluntary retirement after he has normally retired and when the scope of voluntary retirement as per the LARSGESS scheme is gone forever.

6. Accordingly, the OA has no merit and deserves to be dismissed. It is dismissed. No costs.

(Jaya Das Gupta)
Member (A)

(Vishnu Chandra Gupta)
Member (J)

pd