

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No. 41/2018

Dated:- 27.02.2018

Coram: Hon'ble Shri. Arvind J. Rohee, Member (J).
Hon'ble Shri. R. Vijaykumar, Member (A).

1. Vinod Gangadhar Jadhav
Working as Adhoc Typist,
Indian Railways, Institute
of Electrical Engineering
(IRIEEN) Nashik Road,
Nashik – 422 101.
R/at 9, Sandhya Aarti Apartment,
Dasak, Cytric Road, Jail Road,
Nashik 422 101.
2. Vaibhav Vinod Jadhav,
S/o Vinod Gangadhar Jadhav,
Un-employed, Residing with
Applicant No.1 at the above
mentioned address. *Applicants*
(By Advocate Shri S.A. Siddiqui)

Versus

1. Union of India
Through the Secretary,
Ministry of Railways,
Railway Board, Rail Bhavan,
New Delhi – 110 011.
2. General Manager,
Central Railway, HQ Office,
CSMT, Mumbai 400 001.
3. Divisional Railway Manager,
Central Railway, Bhusawal Division,
Bhusawal (Dist. Jalgaon)
– 425 601.
4. Director,
Indian Railways Institute of Electrical
Engineering (IRIEEN) Nashik Road,
Nashik – 422 101. *Respondents*

ORDER (Oral)
Per : Shri A.J. Rohee, Member (J)

Today when the matter is called out for admission, heard Shri S.A. Siddiqui, learned Advocate for the Applicant. We have carefully perused the case record.

2. By this joint application under Section 19 of the Administrative Tribunals Act 1985, the applicants have grievance regarding rejection of the claim of Applicant No.2 - Son of Applicant No.1 for giving employment to him under Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) Scheme. The following reliefs are sought in the OA;

“8.a) The Hon'ble Tribunal will be graciously pleased to call for the records and proceedings of the case in respect of the impugned orders dated 18.09.2015 (Annexure A-1) and 05.11.2015 (Annexure A-2) and after going through legality and validity of the same, quash and set aside the same.

8.b) The Hon'ble Tribunal will be further graciously pleased to hold and declare that Applicant No.1 is entitled to voluntary retirement and the Applicant No.2 is eligible to get the appointment to the post of Khalasi under the

LARSGESS Scheme and consequently direct the respondents to accept voluntary retirement of Applicant No.1 and give an appointment to Applicant No.2 accordingly.

8.c) The Hon'ble Tribunal will be graciously pleased to pass such other and further order as deem fit in the facts and circumstances of the case.

8.d) Cost of the application be awarded to the applicants."

3. Record shows that the Applicant No.1 joined the respondents as Khalasi on 07.09.1994. In pursuance of the scheme dated 02.01.2004 framed by the Railways, since the applicant no.1 has completed more than 20 years of qualifying service and was in the age group of 55-57, he submitted the application for seeking Voluntary Retirement and for employment of his son in Group 'D'. Subsequently by the Notification dated 11.09.2010, the scheme which was previously applicable to the Safety category Staff namely, Loco Pilots, Guards, Gangmen etc, it was made applicable to other Safety Category Staff drawing Grade Pay of Rs.1800/- or more.

4. The Applicants' request is rejected vide order dated 18.09.2015 and the

Applicant No.2 was declared as unsuitable, allegedly on the ground of assessment of eligibility of ward and on scrutinizing the service record of Applicant No.1. When representation was submitted to the higher authority, vide order dated 05.11.2015, it is informed that the claim could not be considered since the applicant no.1 is working as Typist, which does not come under Safety category. Along with OA, MA for condonation of delay is also filed in approaching this Tribunal.

5. After hearing the learned Advocate for the Applicant and after going through the record, it is obvious that Applicant No.1 after serving for a few years as Khalasi in Safety category, was appointed as Typist on adhoc basis with higher grade pay and he is still working on the said post. He is neither on deputation on the said post nor regularly appointed on said post and he continued to work on adhoc basis. However, the applicant claims that since his initial appointment was in Safety category as Khalasi, he has a lien on the said post and hence he is liable to be considered under

LARSGESS Scheme. We do not find any legal justification for the said submission. It is not that the applicant sought reversion to the post of Khalasi nor he is reverted to the said post by respondents and he then applied under LARSGESS Scheme for Voluntary Retirement and employment to his ward. It is obvious that the post of Typist comes under clerical/Ministerial cadre and is not covered under any Safety category and hence the applicant's request has been rightly declined. The Applicant No.1 was between the age group of 50 to 57 when he submitted application for Voluntary Retirement and employment to Applicant No.2 under LARSGESS Scheme whereas by the time the OA is filed on 30.11.2017, he has crossed 57 years. For this reason also the claim at belated stage cannot be considered.

6. In view of this, it cannot be said that the impugned order of rejection is in any manner illegal, improper or incorrect which calls for interference by this Tribunal.

7. In view of this, the OA stands ***dismissed in limine*** at admission stage,

without issuing notice to the respondents.

8. MA for condonation of delay in filing the OA also stands dismissed, since convincing and sufficient grounds are not stated therein.

9. Registry is directed to forward certified copy of this order to both the parties, at the earliest.

(R. Vijaykumar)
Member (A)

(A.J. Rohee)
Member (J)

dm.