

Central Administrative Tribunal
Patna Bench, Patna.
[Circuit Court at Ranchi]

OA 51/000820/2018

Date of Order:- 25.10.2018

C O R A M

Hon'le Shri K.N. Shrivastava, Member A)
Hon'ble J. V. Bhairavia, Member [J]

1. Rajendra Choudhary, aged 64 yrs. s/o late Ram Avtar Choudhary.
2. Rajesh Kumar Choudhary, aged 38 yrs s/o Rajendra Choudhary presently residing c/o Laleshwar Sharma Ram Nagar, Hanuman Mandir, P.O. & P.S.- Chutia, District- Ranchi.

....Applicants

By Advocate : Shri M.A. Khan

Vs.

1. Union of India through the General Manager, East Central Railway, Hajipur- 844101 and 04 others.

..... Respondents.

By Advocate : Shri Prabhat Kumar

O R D E R
(oral)

Per K.N. Shrivastava, M[A] :- Applicant no.1 was working as a Porter in Dhanbad Division of East Central Railway (ECR) and retired from service on 31.10.2014. The applicant no.2 is the son of applicant no.1.

Applicant no.1 had applied for appointment of applicant no.2 under the LARSGESS Scheme on 25.11.2010.

2. The minimum educational qualification for appointment of a ward of Traffic Porter under LARGESS Scheme was class-8 pass. Annexure A/1A). The grievance of the applicants is that despite applicant no.2 having the eligibility, the respondents did not grant him appointment under the LARSGESS Scheme. Applicants have also placed on record a letter dated 09.07.2018 (Annexure A/12) addressed to the Director, SC Commission wherein it is indicated that the applicant no.2 was not considered for appointment under the LARSGESS Scheme as he was not matric passed. It is further stated that as per the new eligibility criteria, for all categories the minimum educational qualification for appointment under LARSGESS Scheme is 10th Class Pass or ITI or equivalent which came into effect from 09.12.2010 and as such, this amended criteria cannot have been applied with respect to the applicant no.2 since the application for appointment of applicant no.2 was preferred prior to that date on 25.11.2010. It is further stated that even the Railway Board vide its Annexure -4B letter dated 27.04.2011 to the General Managers (P) of Indian Railways/Public undertakings had informed that the minimum educational qualifications prescribed prior to issuance of Annexure A/4, OM dated 09.12.2010, has been extended upto 31.07.2011. It is thus contended that the applicant no.2

was fully qualified for consideration under the LARSGESS Scheme and that the respondents have illegally denied his the opportunity. According to the applicant, he has approached this Tribunal through instant OA praying forwith the following reliefs :-

"[8.i] To quash the communication dated 9.07.18(Anx-12) in respect of the applicant no.2 wherein the benefit under LARSGESS Scheme has been denied.

[8.ii] To direct the respondents to reconsider the case of the applicant no.2 for the post of parcel porter under LARSGESS Scheme in view of the railway Board letter dated 9.12.2010(Anx-4) and by following subsequent corrigendum & letters issued by railway board."

3. Heard Shri M.A. Khan, I/c for applicant.
4. Issue notice. Shri Prabhat Kumar accepts notices on behalf of the respondents.
5. Shri Prabhat Kumar, I/c for respondents submitted that the LARSGESS Scheme has been terminated in view of the judgements of Hon'ble Punjab and Haryana High Court and of the Hon'ble Apex Court (in SLP(C) No.

508/2018 dated 08.01.2018) and in pursuance of these judgements, the Railway Board has issued RBE No. 150/2018 dated 26.09.2018. The Learned Counsel for respondents also placed on record a copy of RBE No. 150/2018. He also raised the issue of limitation. He drew our attention to Annexure 10 and stated that the applicant no.1 had applied for appointment of applicant no.2 under the LARSGESS Scheme in the year 2010 and kept quite for almost 8 years before approaching the Platform for Resolution of Service Related Grievances in the year 2018.

6. Sri M.A. Khan, I/c for applicant submitted that the applicants are not seeking appointment under the LARSGESS Scheme afresh. As a matter of fact, they submitted the application way back in the year 2010 and at that relevant time the LARSGESSs Scheme was very much in vogue and despite the applicant no.2 having eligibility, he has been unfairly denied the appointment. Shri Khan further submitted that Annexure R/10 does not relate to limitation. As a matter of fact the applicants were trying to know the status of their application. Shri M.A. Khan further stated that the applicant no.1 did not take VRS as the fate of his application for appointment under LARSGESS Scheme was not made known to him by the respondents and as a consequence there of, he remained in service till the date of his superannuation.

7. We have considered the arguments of both the parties and gone through the pleadings. It is settled position that after the dismissal of SLP(C) No. 508/2018 by the Hon'ble Apex Court the Scheme of LARSGESS ceases to exist. The applicants' contention is that at the relevant point of time, the scheme was very much in vogue and several other applicants had been given the benefits of the said Scheme. We find considerable merit in this contention. In this view of it, we dispose of this O.A in the following terms :-

- (a) *Applicant shall submit a comprehensive representation to respondent no.3 within a period of four weeks from the date of this order.***
- (b) *Respondent no.3 is directed to dispose of such representation by passing a reasoned and speaking order within a period of three months from the date of its receipt under intimation to the applicants.***
- (c) *The applicants shall have liberty to take recourse to appropriate remedy as available to them under law, in case if they remain dissatisfied with the order to be passed by respondent no.3.***

(J. V. Bhairava)
Member [J]

(K.N. Shrivastava)
Member A

mks

