

ORAL

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the **13th Day of May**, 2019)

Hon'ble Mr. Rakesh Sagar Jain, Member (Judicial)
Hon'ble Mr. Pradeep Kumar, Member (Administrative)

Original Application No.330/01496/2016
(U/S 19, Administrative Tribunal Act, 1985)

1. Shiv Lal aged about 56 years S/o Nandu, R/o-Gram post-Terha, Sumirpur, Disst-Hamirpur. Posted as Trackman-IV, Under Senior Section Engineer (P.Way) Manikpur.
2. Bardani S/o Shiv Lal R/o-Gram post-Terha, Sumirpur, Disst-Hamirpur.

..... **Applicants**

By Advocate: Shri S.M. Ali

Versus

1. Union of India through General Manager, Head quarter, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.
3. Senior Section Engineer (P.Way) North Central Railway, Manikpur.

..... **Respondents**

By Advocate: Shri P.K. Mishra, proxy for Shri P. Mathur.

O R D E R

Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member (Judicial)

Shri S.M. Ali, Advocate for the applicant and Shri P.K. Mishra, Advocate proxy for Shri P. Mathur, Advocate for the respondents are present.

2. The applicants Shiv Lal and Bardani have filed this Original Application (OA) for following relief(s):-

"i. To accept the applicant no. 1 for voluntary retirement and to appoint the applicant no. 2 under LARSGEES from the due date at par with other panel candidates with all consequential benefits.

- ii. To direct the respondent no. 2 for deciding the pending representation dated-02.10.2016 within time bound period.*
- iii. To Pass any such and suitable order as deem fit as per the facts and circumstances of the case.*
- iv. Award the cost of the petition in favour of the applicants."*

3. It appears that Railway was running a Scheme known as Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

4. Applicant No.1 Shiv Lal is working on the post of Trackman under Senior Section Engineer (P. Way), Manikpur. Applicant No.2 Bardani is son of Shiv Lal and was reportedly qualified for the selection under the LARSGESS Scheme. It is said that applicant No.1 applied for VRS under the aforesaid Scheme and yet he was not allowed to take benefit of aforesaid Scheme. Therefore, he has been compelled to file the present OA.

5. Main relief in the OA is to accept the request of applicant no. 1 for voluntary retirement and to appoint applicant no. 2 under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff. In this regard the applicants had filed representation dated 02.10.2016 to the respondents.

6. The issue of LARSGESS Scheme was examined by Hon'ble Punjab and Haryana High Court in CWP No.7714/2016 arising out of the order passed by Chandigarh Bench of this Tribunal in the case of **Kala Singh and others vs. Union of India and others in OA No.060/656/2014**. While disposing of the CWP No.7714/2016, Hon'ble

High Court vide the judgment dated 27.04.2016 held that the LARSGESS Scheme does not stand the test of the Article 14 and 16 of the Constitution of India and the Railway Board was directed to reconsider the said Scheme. The Review petition filed by the respondents was also dismissed by Hon'ble High Court vide order dated 14.07.2017. Subsequently the Railway Board challenged the order of Hon'ble High Court before Hon'ble Supreme Court in the SLP (C) No. 508/2018 and vide order dated 08.01.2018, the Hon'ble Supreme Court declined to interfere with the order of Hon'ble High Court.

7. Thereafter, the Railway Board has reviewed the LARSGESS Scheme as per the direction of Hon'ble Punjab and Haryana High Court and vide its order dated 26.09.2018 (R.B.E. No.150/2018) has decided as under:-

"2. In compliance with the above directions, Ministry of Railways have revisited the scheme duly obtaining legal opinion and consulted Ministry of Law & Justice. Accordingly, it has been decided to terminate the LARSGESS Scheme w.e.f. 27.10.2017 i.e. the date from which it was put on hold. No further appointment should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.2017 (but not normally superannuated) and their wards could not be appointed due to the Scheme having been put on hold in terms of Board's letter dated 27.10.2017 though they had successfully completed the entire process and were found medically fit. All such appointments should be made with the approval of the competent authority."

8. Subsequently, another Circular dated 28.09.2018 (RBE No.15/2018) was issued. The contents of circular is reproduced as below:-

"In supersession to Railway Board's letter No.E(P&A)1-2015/RT-43 dated 26.09.2018, it is stated that while the LARSGESS Scheme continues to be on hold with effect from 27.10.2017 on account of various court cases, to impact natural justice to

the staff who have already retired under LARSGESS scheme before 27.10.2017 (but not naturally superannuated) and appointment of whose wards was not made due to various formalities, appointment of such of the wards/candidates can be made with the approval of the competent authority."

9. Thus, the LARSGESS Scheme has been terminated with effect from 27.10.2017 and only the cases where the employees have already retired under LARSGESS before 27.10.2017 which is not normal superannuation and whose case could not be considered because of the order of the Railway Board to put the Scheme on hold can be considered under the Scheme.

10. In view of the circumstances as discussed above, this **OA No.330/1496/2016** is finally disposed off by remitting the matter to the competent authority among the respondents to consider the case of the applicant in the light of the Railway Board order dated 26.09.2018 (R.B.E. No.150/2018) as well as Circular dated 28.09.2018 (RBE No.15/2018) and to pass an appropriate speaking order under intimation to the applicant within three months from the date of receipt of a copy of this order. Learned counsel for the applicant is also permitted to file a fresh representation within seven days.

11. It is made clear that we have not expressed any opinion about the merit of the case while passing this order. There will be no order as to costs.

(Pradeep Kumar)
Member (A)

(Rakesh Sagar Jain)
Member (J)

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