

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 26TH day of **NOVEMBER, 2018**.

ORIGINAL APPLICATION NO. 330/423/2016

HON'BLE MR JUSTICE BHARAT BHUSHAN, MEMBER (J)
HON'BLE MR GOKUL CHANDRA PATI, MEMBER (A)

1. Umesh Kumar Chaurasiya s/o Ram Subhag r/o village – Jhamat, Post-Purandarpur, District-Mahrajganj.
.....Applicant.

VERSUS

1. Union Government of India through General Manager, North Eastern Railway, Gorakhpur.
2. Varishtha Mandal Karmik Adhikari, Purvottar Railway, Lucknow.
3. Mandal Rail Prabandhak (Karmik), Purvottar Railway, Lucknow.
4. Assistant Divisional Engineer (Paschim) North Eastern Railway, Gorakhpur
.....Respondents

Advocate for the Applicant : Shri S S P Gupta

Advocate for the Respondents : Ms Shruti Malviya

ORDER
(Delivered by Hon'ble Mr. Gokul Chandra Pati, Member-A)

Shri S S P Gupta, learned counsel for the applicant and Ms Shruti Malviya, learned counsel for the respondents are present.

2. The applicant has filed this Original Application (in short OA) under section 19 of the Administrative Tribunals Act. 1985 (in short Act) with the prayer for the following reliefs:-

“(I) That the impugned order dated 3-2-2016 passed by the respondent no. 2 (annexure no. 1 to this Original Application), be quashed/set aside by this Hon'ble Tribunal and further a direction be issued to the respondent no 2 to appoint the applicant on the respective post of his father Ram Subhag under the L.A.R.S.G.E.S.S. scheme in pursuance of his selection declared in select list dated 8-1-2013 (annexure no 6 to the original application) forthwith in the interest of justice.”

3. Main relief in the OA is appointment of the applicant, who claims his entitlement for appointment under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS)

against his father who had applied for VRS in lieu of appointment of the applicant under the scheme in pursuance to the notification issued by the respondents, but such claim has not been accepted by the respondent railway. The OA has been filed within time as stipulated under the Act.

4. 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 re-consider 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 8.1.2018, Hon'ble Supreme Court declined to interfere with the order of Hon'ble High Court.

5. 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 appointments should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.17 (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 27.10.17 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."

6. 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.

7. In view of the circumstances as discussed above, this OA is disposed of by remitting the matter to the Respondent No. 1 to consider the case in the light of the Railway Board order dated 26.09.2018 (R.B.E. No. 150/2018) and to pass an appropriate speaking order under intimation to the applicant within two months from the date of receipt of a copy of this order. 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.

(GOKUL CHANDRA PATI)
MEMBER-A

(JUSTICE BHARAT BHUSHAN)
MEMBER-J

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