

(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 330/01372/2015

This the **15th** day of **May 2019**.

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

HON'BLE MR. ASHISH KALIA, MEMBER (J)

1. Satendra Kumar Mishra, s/o Shri Tribhuwan Nath Mishra, Vill – Purenidhi, Pandit Ka Purva, Umapur Gaya Patti, P.O – Amethi District Sultanpur U.P.
2. Tribhuwan Nath Mishra, Vill - Purenidhi, Pandit Ka Purva, Umapur Gaya Patti, P.O – Amethi District Sultanpur U.P.

.....Applicants

By Advocate: Shri S.K. Singh Vashisth

Versus

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, NCR, Allahabad
3. The Divisional Railway Manager (Personnel), NCR, Allahabad.

.....Respondents

By Advocate : Shri Manish Kumar Yadav

ORDER

Delivered by : Hon'ble Ms. Ajanta Dayalan, Member (A)

Heard Shri S.K. Singh Vashisth, learned counsel for the applicants and Shri M.K. Yadav, learned counsel for the respondents.

2. The applicants have filed this Original Application for setting aside the order dated 29.01.2015 (Annexure A-1) and for a direction to the respondents to consider applicant no. 1 for appointment as Transmission Distributor (TrD) under LARSGESS Scheme.

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

4. As per the OA, the applicant no. 2 Tribhuwan Nath Mishra (father of the applicant no. 1), who was working as Helper Grade I under the respondents, applied for voluntary retirement under the LARSGESS and also for appointment of his son under the said Scheme. The applicant no. 1 after qualifying written test as well as aptitude test was called for documents verification as well medical vide annexure A-4. According to the applicant, they were orally informed that TRD does not come within the purview of LARSGESS Scheme. Thereafter, the applicants preferred a representation dated 01.05.2013 to the respondent no. 3. Learned counsel for the applicants states that the respondents vide letter dated 18.07.2013 (Annexure A-6) have informed the General Secretary of AIRF that it was agreed to consider the same post for inclusion under the Scheme. Learned counsel for the applicants also stated that as per the letter dated 24.03.2014 (Annexure A-10), TRD staff working on track comes under safety scheme. Learned counsel for the applicants states that as no action was taken by the respondents, the applicants filed OA No. 1497/2014, which was disposed of vide order dated 05.12.2014 (Annexure A-11) with direction to the respondents to decide the representation of the applicants. Thereafter, the applicants made another representation dated 15.12.2014 (Annexure A-12). Learned counsel for the applicants also states that the grievance of the applicants would be redressed if a direction is given to the competent authority to consider the claim of the applicants in accordance with 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).

5. Main relief in the OA is for accepting request of the applicant no. 2 for voluntary retirement and for appointment of applicant no. 1 under the

Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS) .

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 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.

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 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.”

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 cases, to impart 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 but who are not normally superannuated 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 is finally disposed of 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.

11. It is made clear that we have not expressed any opinion about the merit of the case while passing this order.

12. There will be no order as to costs.

MEMBER-J

MEMBER-A

Anand...