

(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 330/01282/2015

This the **13th** day of **March, 2019.**

**HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

1. Dinesh Kumar Patel, s/o Shrikesh, r/o Village – Jeeanganj, Post – Kashiya Purab Mooratganj, Kaushambi.
2. Shrikesh, S/o Sharda Prasad, r/o Village – Jeevanganj, Post – Kashiya Purab Mooratganj, Kaushambi.

.....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, N.C.R, Allahabad.
3. The Divisional Railway Manager (Personnel), NCR, Allahabad.

.....Respondents

By Advocate : Shri Atul Kumar Shahi

O R D E R

DELIVERED BY: HON'BLE MR. JUSTICE BHARAT BHUSHAN, (MEMBER-J)

Heard Shri S.K. Singh Vashisth, learned counsel for the applicants and Shri Atul Kumar Shahi, learned counsel for the respondents.

2. The applicants Dinesh Kumar Patel and Shrikesh have filed this Original Application (PA) for following relief(s): -

“(a). issue an order or direction to respondent No. 2 to consider for appointment to the applicant No. 1 Transmission Distributor (Trd) Electric under the abovementioned LARSGESS Scheme and order dated 24-3-2014 of Railway Board.

(b). Issue an order or direction to the respondents which the Hon'ble Court may deem fit and proper in the interest of justice.

(c). Award cost in the favour of the applicant."

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. The applicant no. 2 Shri Shrikesh is the father of the applicant no. 1 Shri Dinesh Kumar, who was working as Helper Grade-I under the respondents railways. The applicant no. 2 applied for retirement under the aforesaid LARSGESS Scheme. Subsequently, the contention of the applicant no. 2 was not accepted and the son was not given appointment under LARSGESS Scheme , hence, the applicants were constrained to file the present OA.

5. Main relief in the OA is appointment of the dependent of the applicant no. 2, who is a railway servant, who claims his entitlement 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 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, 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-A

MEMBER-J

Anand...