

(Reserved on 14.05.2019)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 330/01328/2015

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

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

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

1. Dost Mohammad, aged about 59 years, S/o Rasheed
2. Mohd. Arif, a/a 24 years, S/o Dost Mohammad

Both R/o Mohorka Patti, Thana Gajraula, District - Amroha.

.....Applicants

By Advocate: Shri S.K. Kushwaha

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, Rail Bhawan, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Assistant Divisional Engineer, Northern Railway, Hapur.
4. Senior Section Engineer (P.Way), Northern Railway, Amroha.

.....Respondents

By Advocate : Shri G.K. Tripathi

O R D E R

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

Heard Shri S.K. Kushwaha, learned counsel for the applicants and Shri G.K. Tripathi, learned counsel for the respondents.

2. The applicants have filed this Original Application for quashing the impugned order dated 19.08.2015 (Annexure-1) and for a direction to the respondent no. 2 to consider the request for voluntary retirement under LARSGESS Scheme – 2012 and to issue appointment order in favour of the applicant no. 2.

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. 1 Dost Mohammad (father of the applicant no. 2), who is working as Trackman under Senior Section Engineer (P.Way), Amroha, applied for voluntary retirement on 31.12.2012 under the LARSGESS and also for appointment of his son under the said Scheme but the office of the respondents misplaced the application of the applicant no. 1. Thereafter, the applicants made a representation dated 02.09.2014 (Annexure A-6) to the Divisional Railway Manager (P), Moradabad but till the impugned order dated 19.08.2015 was passed, the respondents did not take any action for appointment of applicant no. 2. Learned counsel for the applicants 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. 1 for voluntary retirement and for appointment of applicant no. 2 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 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 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 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...