

(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 330/00805/2016

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

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)
HON'BLE MR. ASHISH KALIA, MEMBER (J)

1. Anil Kumar Tiwari, aged about 60 years, S/o Late Shri Kishan Tiwari, working as Loco Pilot (Male), N.E. Railways, Izzatnagar, R/o House No. 10, Revindra Nagar Colony, Badaun Road (Opposite Subhas Nagar, Bareilly).
2. Shobhit Tiwari, asged abour 29 years, S/o Shri Anil Kumar Tiwari, R/o House No. 10, Revindra Nagar Colony, Badaun Road (Opposite Subhas Nagar, Bareilly).

.....Applicants

By Advocate: Shri M.K. Dhrubvanshi

Versus

1. Union of India through General Manager, North Eastern Railway, Headquarter Office, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izzatnagar Division, Izzatnagar Bareilly (U.P).
3. Senior Divisional Personnel Officer, North Eastern Railway, Izzatnagar, Bareilly (U.P).
4. Senior D.M.E. (O &F), Northen Railway, Izzatnagar, Bareilly.
5. Chief Personnel Officer, N.E. Railway, H.Q Office, Gorakhpur.

.....Respondents

By Advocate : Shri L.M. Singh

O R D E R

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

Heard Shri M.K. Dhrubvanshi, learned counsel for the applicants and Shri L.M. Singh, learned counsel for the respondents.

2. The applicants have filed this Original Application for a direction to the respondents to consider the claim of the applicant no. 1 and to decide representation dated 08.06.2015 (Annexure A-10).

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 Anil Kumar Tiwari (father of the applicant no. 2), who was working as Loco Pilot (Male) Diesel Lobey, Bareilly City, N.E. Railway, Izzatnagar, applied for voluntary retirement on 27.01.2013 (Annexure A-4) 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 screening of the original documents vide letter dated 01.05.2014 (Annexure A-7). Thereafter, the applicant no. 1 submitted a representation dated 08.06.2015 alongwith I.T.I. certificate (Annexure A-10). Learned counsel for the applicants states that no action has been taken by the respondents on the representation dated 08.06.2015 . 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. 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...