

ORAL

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the **12th Day of March**, 2019)

**Hon'ble Mr. Justice Bharat Bhushan, Member (Judicial)
Hon'ble Ms. Ajanta Dayalan, Member (Administrative)**

Original Application No.330/1068/2016
(U/S 19, Administrative Tribunal Act, 1985)

1. Lakhan son of Bharose, R/o Village and Post Harshpur, Tehsil Talbehat, District Lalitpur.
2. Shiv Raj Son of Lakhan Lal, R/o – Village and Post Harshpur, Tehsil Talbehat, District Lalitpur.

..... **Applicants**

By Advocate: Shri A.D. Singh

Versus

1. Union of India through General Manager, North Central Railway, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.
3. Divisional Railway Manager (Personal) North Central Railway, Jhansi.

..... **Respondents**

By Advocate: None

O R D E R

Delivered by Hon'ble Mr. Justice Bharat Bhushan, Member (Judicial)

Shri A.D. Singh, Advocate is present for the applicant. None present for respondents.

2. The applicant Lakhan has filed this Original Application (OA) for following relief(s):-

- i. to issue an order or direction in the nature of mandamus commanding the respondents to appoint the applicant No.2 under LARSGESS Scheme.*
- ii. to issue an order or direction, directing the respondent No.2 to decide the representation of the applicants dated 29.01.2016 within stipulated period accordance with law.*

iii. to pass any other and further order as may deem fit and proper in the circumstances of the case."

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. Applicant No.1 Lakhan was initially appointed in the Railway Department on 13.02.1989 and was continuing as Trackman. Applicant No.2 Shiv Raj is son of Lakhan and was reportedly qualified for the selection under the LARSGESS Scheme. It is said that applicant No.1 applied for VRS under the aforesaid Scheme and yet he was not allowed to take benefit of aforesaid Scheme. Therefore, he has been compelled to file the present OA.

5. Main relief in the OA is appointment of the applicant/dependent of the applicant, who is a railway servant, who claims his entitlement under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff.

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 08.01.2018, the 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 appointment should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.2017 (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 27.10.2017 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 court 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 2710.2017 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.

10. In view of the circumstances as discussed above, this **OA No.330/1068/2016** is finally disposed off 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. 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.

(Ajanta Dayalan)
Member (A)

(Justice Bharat Bhushan)
Member (J)

Sushil