

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 656 of 2016**

**Present :** Hon'ble Mr. Gokul Chandra Pati, Member (A)  
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Rajkishore Pradhan, aged about 60 years, S/o Late Jagannath Pradhan, At – Painapur, PO/PS – Nirakarpur, Dist. – Khurda, now working as Trackman, Senior most MATE DTM 33 under SSE/P.Way/E.Coast Railway Kalupada Ghat under LARSGESS Scheme, Dist – Khurda – 752022.

.....Applicant

**VERSUS**

1. Union of India represented through its General Manager, East Coast Railway, At/PO – Bhubaneswar, Dist. – Khurda.
2. Divisional Personnel Officer-I, Khurda Road, At/PO-Khurda Road, Dist. – Khurda.

.....Respondents.

For the applicant : Mr.S.C.Mekup, counsel

For the respondents: Mr.S.K.Ojha, counsel

Heard & reserved on : 14.1.2019

Order on : 13.2.2019

**O R D E R**

**Per Mr.Gokul Chandra Pati, Member (A)**

In this case, the grievance of the applicant is against the impugned order dated 27.4.2016 (Annexure-A/14) passed by the respondent no. 1 rejecting the claim of the applicant for availing voluntary retirement from service (in short VRS) under the scheme of Liberalized Active Retirement Scheme for Guaranteed Employment for Safety (in short LARSGESS) of the respondent-Railways. This OA is filed for following reliefs:-

- "(i) To admit the Original Application.
- (ii) Direct the respondent No.1 to consider VRS application of the year 2012 of applicant under LARSGESS scheme by quashing Annexure - ...passed by respondent No.1 on 27.4.2016 taking into account Annexure A/11 and A/12 of Ministry of Railway, Railway Board dated 29.3.2011 and office of DRM(P)/Khurda East Coast Railway dated 2.1.2014 of LARSGES Scheme 2014.
- (iii) Pass such orders/direction as may be deemed fit and proper in the bonafide interest of justice."

2. Learned counsel for the applicant was heard on the OA. He stated that the applicant had applied for VRS under LARSGESS in the year 2012 under the LARSGESS, which was filed in time and if delay has occurred, it is on account of the respondents and the applicant should not be penalized. He was

found by the respondents to be overage as stated in the impugned order dated 27.4.2016 by which the application for VRS was rejected. It was further submitted by the applicant's counsel that another reason that the applicant was working as a Mate, for which, he was not eligible for LARSGESS. This is incorrect as the applicant was initially appointed as Junior Trackman on 21.4.1976 and then promoted as Keyman on 28.5.2002 and then as Mate on 23.11.2006 and continuing as a Trackman (seniormost Mate), as stated in the OA. It was also pointed out that in the copy of the Register at Annexure-A/1 of the OA, the applicant has been shown as Trackman-III Mate and he was the senior most Mate in the department. Hence, it was argued that it was wrong to disqualify the applicant from LARSGESS as he was eligible as a Trackman. It was also argued that 'Mate' is a specified category as per the Railway Board circular dated 29.3.2011 (A/11) and that the Annexure-A/16 (PPO) filed through the MA No. 809/16, shows the applicant's designation as Track Maintainer-II, which is a category covered under LARSGESS. It was therefore, argued that the impugned order dated 27.4.2016 (A/14) is unsustainable.

3. Learned counsel for the respondents opposed the arguments of the applicant and stated that the impugned order dated 27.4.2016 has been correctly issued. He further submitted that as on date the LARSGESS scheme was not available to consider any case. He also pointed out to the copy of the application filed by the applicant under LARSGESS at page 42 of the Counter, in which, the applicant had stated his designation as 'Mate'. Learned counsel for the respondents referred to the Additional Counter Reply, in which, it is stated that the safety category staff have been reclassified as Track Maintainer as per the Board's circular RBE No. 91/2012 in which the 'Mate' was redesignated as Track Maintainer-III with the Grade Pay of Rs. 1900/-. The applicant had retired from the post of Track Maintainer-II with Grade Pay of Rs. 2400/-. He also drew our attention to the notification dated 31.7.2012 (Annexure-R/5 to the counter) in which, it was mentioned that the safety category staff with Grade Pay of Rs. 1800/- were eligible for applying under LARSGESS scheme. As Mate, the applicant was drawing the Grade Pay of Rs. 1900/- and hence, he was not eligible for applying under LARSGESS.

4. Learned counsel for the applicant denied the submissions of the respondents' counsel and stated that the applicant's Grade Pay in 2012 was Rs. 1800/- and hence, he was eligible for applying under LARSGESS. The respondents' counsel submitted that the applicant was a 'Mate' w.e.f. 23.11.2006 as stated in the impugned order date 27.4.2016 and hence, the applicant's Grade Pay was Rs. 1900/- w.e.f. 23.11.2006.

5. After considering the submissions of learned counsels for both the sides and going through the pleadings on record including the documents produced before us, we are unable to agree with the contentions of the applicant's counsels. As mentioned in the impugned order dated 27.4.2016 (A/14), the applicant had been promoted to the post of Mate on 23.11.2006 and the Grade Pay of 'Mate' is Rs. 1900/- as stated in the Railway Board circular dated 17.8.2012 (Annexure-R/12 enclosed with the Additional Counter Reply). It is clear that as a 'Mate', the applicant was not eligible for LARSGESS since his Grade pay was Rs.1900/-, the applicant failed to produce any document to show that his Grade Pay was Rs. 1800/- when he applied for the LARSGESS in 2012/2013 as a Mate. The argument of the applicant's counsel that his Grade Pay was Rs. 1800/- when he had applied in 2012, is not corroborated by any of the document furnished by the applicant in this case. In addition, the applicant has not furnished any document to prove that he had applied in 2012 as claimed by him. From the copy of his application at Annexure-R/8 to the Counter, it is seen that the applicant has signed the application without mentioning any date as the 'Date' column was left blank by the applicant. The said application was forwarded by an official on 29.1.2013, which has to be reckoned as the date of the application. It is obvious that the applicant was overaged as on the cut off date of 1.1.2013, as stated correctly in the order dated 27.4.2016.

6. There is another aspect to this case. It is noticed that vide circular dated 28.9.2018 (RBE 151/2018) of the Railway Board, the present status of LARSGESS scheme is stated as under:-

".....**Sub: LARSGESS Scheme.**

Ref: (1) Board's letter of even number dated 27.10.2017

(2) Board's letter of even number dated 26.09.2018

In supersession to Railway Board's letter No. E(P&A)I-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 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."

The above decision of the Railway Board has been taken in the background of the judgment dated 27.4.2016 of Hon'ble Punjab and Haryana High Court in CWP No. 7714 of 2016 had held that the LARSGESS scheme "prima facie does not stand to the test of Articles 14 and 16 of the Constitution of India." The Railway Board was directed to revisit the scheme before making any appointment under the scheme. The SLP filed by Railway Board before Hon'ble Apex Court against the judgment has been dismissed. Hence, the scheme has

been kept in abeyance by the Railway Board since 27.10.2017 and only the cases where the employees had been already retired under LARSGESS, but not retired on superannuation, can be considered with approval of the competent authority as per the Railway Board circular dated 28.9.2018. The applicant's case for VRS under LARGESS had been rightly rejected as discussed in paragraph 5 supra. The applicant retired from service on 30.9.2015 on superannuation.

7. For the reasons as mentioned above, we do not find any merit in the case and there is no cause for interference of this Tribunal in the matter. The OA, being devoid of merit, is liable to be dismissed and hence, it is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)  
MEMBER (J)

(GOKUL CHANDRA PATI)  
MEMBER (A)

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