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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00528/2015**

**Wednesday, this the 3<sup>rd</sup> day of April , 2019**

**CORAM:**

<b>HON'BLE Mr.E.K.BHARAT BHUSHAN,</b>	<b>...ADMINISTRATIVE MEMBER</b>
<b>HON'BLE MR.ASHISH KALIA,</b>	<b>...JUDICIAL MEMBER</b>

Smt.P.A.Rosy,  
W/o late Francis,  
Panayakaddan House,  
Pullanikadu PO.,  
Wadakkancherry,  
Trichur District.

...Applicant

**(By Advocate M/s. Varkey & Martin)**

**V e r s u s**

1. The General Manager,  
Southern Railway,  
Park town P.O.,  
Chennai -3.

2. The Senior Divisional Personnel Officer,  
Southern Railway,  
Trivandrum Division,  
Trivandrum-14.

.....Respondents

**(By Mrs. K.Girija for Respondents)**

This application having been heard on 1<sup>st</sup> April, 2019, the Tribunal on  
3<sup>rd</sup> April, 2019 delivered the following :

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**ORDER**

**HON'BLE MR.E.K.BHARAT BHUSHAN, ....ADMINISTRATIVE MEMBER\_**

OA No.528/2015 is filed by Smt.A.Rosy, challenging the order passed by the second respondent in pursuance to the directions of this Tribunal in OA No.180/00023/2014.

2. The impugned order rejects the claim of the applicant seeking the eligible benefits under Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff. The relief sought under OA are as follows:

- i) Call for the records leading to the issuance of Annexure A5 and quash the same.
- ii) Declare that the applicant is eligible to get the benefit of Annexure A1 scheme and to direct the respondent to consider the applicant's son for appointment on the basis of the said declaration.
- lii) Award costs of the incidental to this application.
- iv) Grant such other relief, which this Honourable Tribunal may deem fit and proper in the circumstances of the case.

3. The respondent Railways notified Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) through communication dated 29.03.2011 (Annexure A1). The applicant, who came within the eligible age group of 50-57 at that time, applied for voluntary retirement and for simultaneous appointment of her son, Shijohn P.F. A copy of the application is at Annexure A2. The respondents failed to take any prompt action on the said application. Aggrieved, the applicant

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approached this Tribunal by filing OA No.23 of 2014. The respondents disputed the relief sought in the OA on the ground that the applicant had crossed 57 years of age as on 01.07.2007. The respondents ignored the negligence and delay on their own part while countering the applicant's demand.

4. The Scheme had been introduced by the Railway Board by communication dated 11.09.2010. Unfortunately, Trivandrum Division circulated the same only on 19.04.2011. This has been admitted in the reply statement filed in OA No.15 of 2012. As there was significant delay on the part of the respondents to circulate the Scheme in Trivandrum Division the applicant was found overaged as on 01.07.2007. The respondents cannot take advantage of their own negligence and there is no justification in not fixing 1<sup>st</sup> January, 2011 as the cut off date for reckoning the eligibility of the applicant.

5. In Annexure A3 judgment, this Tribunal had observed that the contentions of the applicant has some force and also took note of the fact that the judgment of Hon'ble High Court of Kerala in OP CAT No.45 of 2014 is relevant in this case. However, the impugned order at Annexure A5 had been issued without considering the observations made by this Tribunal and the same suffers from non-application of mind.

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6. The respondents have filed reply statement disputing the contentions raised in the OA. They state that the applicant had retired on attaining the age of 60 years on 31.05.2014 and she had attained 57 years on 04.05.2011, clearly putting herself outside the age for consideration under the Scheme. The Scheme as such at Annexure A1 was initiated for implementation only during the second half of 2011 with cut-off dated provided as 01.07.2011. Having attained 57 years on 04.05.2011, she had already crossed 57 years of age by that date. Her contention that she fell within the age group of 50-57 years, when the Scheme was promulgated is misleading and untrue. In any case, the Scheme itself clearly lays down the process of retirement/recruitment would be started from July, 2011. The respondents also dispute the contentions made in the OA that the Trivandrum Division had delayed the implementation. There is no evidence produced to prove this averment. The applicant cannot claim any relief from Annexure A4 judgment as the relief granted in the case is to be treated as an “isolated case without treating anything stated therein as laying down any principle of law to be applied by the Railways in any other case”, as observed by the Hon'ble High Court in the order itself.

7. Shri Martin was heard on behalf of the applicant and Smt.Girija on behalf of the respondent Railways. Shri Martin submitted that the impugned order has been issued in violation of the direction contained in Annexure A3 judgment of this Tribunal. Smt.Girija during hearing drew our attention to

the judgment of the **Hon'ble Supreme Court in IA No.18573/2019 – Union of India & Ors. Vs. Kala Singh & Ors.**, wherein the Hon'ble Apex Court had taken note of the averment made by the respondent Railways that the Scheme LARSGESS stood terminated.

8. The question is whether we are required to allow the relief sought by the applicant by not relating her case to the proceedings before the Hon'ble Supreme Court on the ground that the relief sought pertains to a period well before the said judgment. The LARSGESS Scheme had been promulgated as a beneficial scheme for employees and was in operation till termination of the same in 2017. As all large schemes which have Pan-India application, strict adherence to the terms mentioned in the scheme is necessary in order to avoid misuse. It is mentioned in the Scheme itself that the cut-off date for consideration under the Scheme would be 01.07.2011. The applicant had attained the age of 57 on 04.05.2011; clearly she stands disqualified to seek the benefit. She can draw little assistance from the judgment of Hon'ble High Court at Annexure A4 for the reason that the Hon'ble High Court itself had indicated that the judgment therein should not have the effect of laying down any principle of law to be applied by the Railways in any other case. No credence can be attached to the contention that the operation of the scheme was delayed unduly in Trivandrum Division, as Annexure A1 covering letter of the Scheme itself mentions that process of retirement/recruitment is to be started from July, 2011.

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9. After duly considering the facts on offer the pleadings made by both sides, we come to the conclusion that the OA lacks merit and we dismiss the same. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**sd**

**List of Annexures in O.A. No.180/00528/2015**

1. **Annexure A1** – True copy of the Railway Board order RBE No.131/2010 dated 11.09.2010 along with its annexures.
  2. **Annexure A2** - True copy of the application submitted by the applicant dated 14.05.2011.
  3. **Annexure A3** - True copy of the order dated 05.06.2014 in OA No.180/00023/2014.
  4. **Annexure A4** - True copy of the judgment in OP (CAT) 45 of 2014 dated 07.04.2014 passed by the Hon'ble High Court of Kerala.
  5. **Annexure A5** - True copy of the Order bearing No.V/P.579/I/LARSGESS/Vol.III dated 10.07.2014.
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