

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00433/2016

Jabalpur, this Thursday, the 02nd day of May, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Ismail Khan
S/o Peer Mohhamad
aged about 57 years
R/o In front of K.V. No.1
Banglaw No.6 Railway Colony
Cantt. Sagar (M.P.) 470002

-Applicant

(By Advocate –**Shri Maneesh Soni**)

V e r s u s

1. Amended

2. Divisional Railway Manager,
West Central Railway
Jabalpur (M.P.) PIN 482002

3. Senior Divisional Engineer,
West Central Railway
Jabalpur (M.P.) PIN 482002

4. Senior Divisional Engineer
West Central Railway
Rail Path Sagar (M.P.) PIN 470002

5. Assistant Divisional Engineer
West Central Railway
Sagar (M.P.) PIN 470002

-Respondents

(By Advocate –**Shri Arun Soni**)

ORDER (Oral)

This Original Application has been filed by the applicant against the order dated 02.12.2015 (Annexure A-1) passed by the respondent-department whereby the applicant has been informed that he has been posted to the Running Room, Baira as he has been medically de-categorized from the post of Gangman and his application for appointment of his son under LARSGESS has been rejected.

2. The applicant in this Original Application has prayed for the following reliefs:-

“8(i) Hon’ble Court may kindly be pleased to quashed the impugned order dated 02.12.2015 (Annexure A/1).

8(ii) Hon’ble Court may kindly be pleased to also quash the order dated 13/08/2015 and order dated 11/09/2009 (Annex A/5 & A/6).

8(iii) That, this Hon’ble Court may kindly be pleased to give the directions to the respondents to appoint the son of applicant in the post of Gangman by given the benefit of VRS Scheme of 2014 and all the consequential benefits to the applicant and his son which they deserve.

(iv) Any other relief, which this Hon’ble Court deem fit and proper in favor of the applicant may also be given in the interest of justice.”

3. The brief facts of the case are that the applicant was working under the respondent-department since 22.11.1983 as Gangman now known as Trackman. He was regularized on 30.11.1984. The

applicant was found medically unfit on 09.09.2008 for the post of Gangman. Thereafter he was given alternative post of Running Room Baira under CCOR, Sagar vide order dated 11.09.2009 (Annexure A/6). The applicant applied for voluntary retirement scheme for giving appointment to his son under the LARSGESS scheme. Thereafter the applicant had applied for appointment of his son vide application dated 25.07.2015 (Annexure A/4) to the respondents. But respondents did not take any action. The applicant filed Original Application No.200/758/2015 before this Tribunal which was disposed of vide order dated 04.09.2015 with a direction to the respondents to consider the representation of the applicant. On compliance of the said order of this Tribunal, the respondent-department has rejected the claim of the applicant vide order dated 02.12.2015 (Annexure A-1). Hence this Original Application.

4. The respondents in their reply have submitted that the applicant was medically decategorised and declared unfit for of the post of Gangman and was given alternative post of Running Room Baira under CCCOR, Sagar vide order dated 11.09.2009. The applicant had applied for appointment of his son under LARSGESS on 25.07.2015. At that time the applicant had not been on the post of Gangman. Therefore the candidature of his son was

not considered. The respondents further submitted that the applicant is challenging the order dated 11.09.2009 in the year 2016 which is barred by limitation.

5. The applicant has filed the rejoinder to the reply filed by the respondents, wherein the applicant has reiterated the stand already taken in the Original Application. It has been submitted by the applicant that the post of Baira at Running Room Sagar is not in existence w.e.f.10.02.2015 (Annexure A/10).

6. Heard the arguments of learned counsel for both the parties and I have also perused the documents attached with the O.A.

7. From the pleadings itself it is clear that the applicant was working as Gangman with the respondent-department w.e.f.22.11.1983. It is also not disputed that he was declared medically unfit and was given alternative post of Baira in Running Room, CCCOR Sagar vide order dated 11.09.2009. It is admitted fact that the applicant had applied for appointment of his son under LARSGESS scheme vide application dated 25.07.2015 and at that time the applicant was not on the post of Gangman. It is pertinent to mention that the applicant is challenging the order dated 11.09.2009 in the year 2016, which is barred by limitation and no satisfactory reasons have been given by the applicant. In addition to this, in view of the decision by Hon'ble High Court of Punjab

and Haryana in case of *Kala Singh and Ors. vs. Union of India and Ors.*, Railway Board vide E(P&A) 1-2015/RT-43 dated 27.10.2017 has put the LARSGESS Scheme on hold. Therefore nothing remains in this O.A.

8. In view of the above, this Original Application is dismissed.

No costs.

(Ramesh Singh Thakur)
Judicial Member

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