

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

O.A. No. 03/2016

Date Of Decision: 25<sup>th</sup> January, 2019.

CORAM: R. VIJAYKUMAR, MEMBER (A).  
R.N. SINGH, MEMBER (J).

- 1) Shri Elaiyaperumal S/o Jaganathan, presently working as Helper Khalasi, in the O/o ADEE(TD) PNVL, Central Railway, Panvel, Aged 57 years, Group D and residing at MS/RBI, 9/4, Sector 22, Central Railway Colony, Juinagar, Navi Mumbai.
- 2) Shri Balakrishnan S/o Elaiyaperumal, residing at MS/RBI, 9/4, Sector 22, Central Railway Colony, Juinagar, Navi Mumbai.

...Applicants.

(By Advocate Shri A I Bhatkar)

Versus

1. The Union of India, Through the Secretary to Govt. of India, Ministry of Railways (Railway Board), Rail Bhawan, New Delhi- 110 001.
2. The General Manager, Central Railway, CST, Mumbai- 400 001.
3. The Divisional Railway Manager, Central Railway, CST, Mumbai- 400 001.
4. The Assistant Divisional Engineer (TD), Central Railway, Panvel, Navi Mumbai- 410 206.

...Respondents.

(By Advocate Shri S C Dhawan)

Reserved on : 10.01.2019

Pronounced on : 25.01.2019

**ORDER****PER:- R. VIJAYKUMAR, MEMBER (A) .**

This application has been filed on 04.01.2016 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"(a) This Hon'ble Tribunal will be graciously pleased to call for the impugned order dated 22.06.2015 and also the records and proceedings pertaining to the issuance the same as also the order dated 24.06.2015 and after going through the legality and validity of the same quash and set aside the same as far as it pertains to the Applicants.

b) This Hon'ble Tribunal will be graciously pleased to hold and declare that the Applicant No.1 is eligible to submit his application under LARSGESS Scheme.

c) This Hon'ble Tribunal will be graciously pleased to hold and declare that the Applicant No.2 is eligible to get the appointment to the post of Helper Khalasi under LARSGESS Scheme and direct the Respondents to give an appointment to Applicant No.2 accordingly..

d) This Hon'ble Tribunal will be graciously pleased to pass such other and further orders as deemed fit in the facts and circumstances of the case.

(e) Cost of this application be awarded to the Applicants."

2. The applicant No. 1, who is the father of applicant No. 2, filed an application on 28.07.2014 with the respondents under the LARSGESS Scheme but which was rejected by the respondents in Letter No. NO/TD/PNVL/18/LARSGESS dt. 24.06.2015 [Annexure A-1] on the basis that he had less than 20 years of qualifying service to his credit. The applicant has argued that the delayed processing of his application which was submitted for the second phase of 2014 prevented him from filing in 2015 when he had completed 20 years of service. Further, he has cited some other persons who have received the benefit although they were identically placed. The respondents have stated that the applicant's claim made for the July cycle was rejected for the reasons admitted by him and when he applied again in July, 2015, his age exceeded 57 years which was the prescribed cut-off. They assign the blame to the applicant for not filing an application in January, 2015 when he claims to have been duly eligible.

3. The Hon'ble High Court of Punjab and Haryana considered this matter of the LARSGESS Scheme in CPW No. 7714/2016 decided on 27.04.2016, and held that the Scheme did not withstand the test of Articles 14 & 16 of the Constitution and also made reference to the mandates contained **in the State of Karnataka Vs. Uma Devi, (2006) 4 SCC 1.** In the case of Umadevi (supra), the Hon'ble Apex Court set out guidelines on what could be considered to be a valid scheme of employment under the Constitution and the LARSGESS, in these terms, was not conforming to those principles. The Hon'ble Apex Court **in SLP(C) No. 508/2018 dt. 08.01.2018** declined to interfere with the directions of the Hon'ble High Court. Therefore, the Scheme is inherently unconstitutional.

4. Following the orders of the Hon'ble Apex Court, the Railways have re-visited the Scheme and have issued orders in their reference No. E(P&A)I-2015/RT-43 dt. 26.09.2018 withdrawing the LARSGESS Scheme. In the circumstances that the dispensation by

way of the LARSGESS Scheme itself has ceased to exist as a mode of recruitment, no entitlement can be claimed in this regard by the applicant. The OA is, accordingly dismissed without any order as to costs.

U

(R.N. Singh)  
Member (J)

(R. Vijaykumar)  
Member (A)

Ram.

JW  
1/2

