

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH,
MUMBAI.**

O.A.210/00240/2018

Dated this Tuesday the 5th day of March, 2019.

**Coram: Dr. Bhagwan Sahai, Member (Administrative)
Shri R.N. Singh, Member (Judicial).**

1. Ishwar Parbhat Tayade,
working as : Trackman
(Group 'D' post),
under SSE (P) Way,
Central Railway, Bodwad,
(Bhusawal Division) and
residing at : Village-Nimkhed,
Post - Ghankhed, Taluka-Bodwad,
District-Jalgaon,
State of Maharashtra,
Pin Code -425 310.
 2. Navanit Ishwar Tayade,
residing at : Village-Nimkhed,
Post - Ghankhed, Taluka-Bodwad,
District-Jalgaon,
State of Maharashtra,
Pin Code -425 310.
- .. Applicants.

(By Advocate Shri R.G. Walia).

Versus

1. Union of India, through
General Manager,
Central Railway,
Headquarters Office,
Chhatrapati Shivaji Maharaj
Terminus (CSMT),
Mumbai - 400 001.
2. DRM (Divisional Railway Manager),
Bhusawal Division,
DRM's Office, Personnel Branch,
Bhusawal, District: Jalgaon,
State: Maharashtra-425 201.
3. C.P.O. (Chief Personnel Officer),
Central Railway,
Headquarters Office,
Chhatrapati Shivaji Maharaj
Terminus (CSMT),

Mumbai - 400 001.

.. Respondents.

(By Advocate, Ms. Sangita Yadav).

Order reserved on : 07.02.2019

Order delivered on : 05.03.2019.

O R D E R

Per : Dr. Bhagwan Sahai, Member (A).

This O.A. has been filed by Shri Ishwar Parbhat Tayade and Shri Navanit Ishwar Tayade on 02.04.2018, when applicant No.1 was working as Trackman (Group 'D' post) under SSE (P), Central Railway, Bodwad, Bhusawal Division, Jalgaon, and the applicant No.2 is his son. The applicants have sought quashing and setting aside of the order dated 18.09.2015 (Annex-A-1) passed by Sr. Divisional Personnel Officer, Central Railway, Bhusawal declaring the applicant No.2 as unsuitable for employment under LARSGESS Scheme (first cycle of 2015) and order of 09.02.2016 (Annex-A-2) issued by Divisional Railway Manager (P), Bhusawal and direction to respondents to appoint the applicant No.2 under the LARSGESS Scheme.

2. The Counsel for the applicants and respondents were heard on 17.01.2019 and 07.02.2019. By the impugned order dated 18.09.2015, based on consideration of 330 applications received for employment under LARSGESS Scheme, the applicant No.2 (at Sr.No.88)

was assessed to be unsuitable. Based on the representation of the applicant No.1 dated 20.01.2016, the respondents issued the impugned order dated 09.02.2016 (Annex-A-2, page 39) stating that employment under the LARSGESS Scheme is not a vested right and if eligibility is not there in the next cycle, appointment cannot be considered and in view of this the applicant's case cannot be considered, it was stated.

3. The applicants have also filed M.A.173/2018 for condonation of delay of about 6 months in filing the present O.A. stating that they wanted to obtain certain documents for filing the O.A. and, therefore, the delay should be condoned.

4. In reply to the application for condonation of delay, the respondents have explained that this O.A. is time-barred and cannot be allowed as there is no justification for condonation of delay and the O.A. should be dismissed.

5. During hearing of the case, the respondents have submitted copies of two Railway Board Circulars i.e. RBE No.150/2018 dated 26.09.2018 and RBE No.151/2018 dated 28.09.2018. In these circulars it has been explained that in view of Punjab and Haryana High Court judgment

dated 27.04.2016 and 14.07.2017 (on Review Petition), it has been held that the LARSGESS Scheme prima facie does not stand to the test of Articles 14 and 16 of the Constitution of India and before making any appointment under the offending policy, its validity and sustainability be revisited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment.

6. An appeal against the judgment of the High Court in SLP No.508/2018 was also disposed of by the Hon'ble Supreme Court declining interference with the directions of the High Court. In compliance with the above directions, the Ministry of Railways have revisited the Scheme in due consultation with the Ministry of Law & Justice and it has been decided to terminate the LARSGESS Scheme with effect from 27.10.2017. It has been further communicated in the above mentioned circulars of the Railway Board that LARSGESS Scheme continues to be on hold but to impart natural justice to the staff who have already retired under the LARSGESS Scheme before 27.10.2017 (not normally 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.

7. The applicants have failed to justify the delay in filing of the O.A. So the M.A.173/2018 stands rejected. In the present case of the applicants, we find that request of applicant No.1 for retirement under the LARSGESS Scheme for employment of his son was rejected by the respondents on 18.09.2015 and again on 09.02.2016. Thereafter the applicant No.1 has continued in service of the respondents as Trackman upto filing of the present O.A. (his date of superannuation being 30.04.2018). Since the LARSGESS Scheme has been terminated/kept on hold from 27.10.2017, and he has superannuated on 30.04.2018, his case does not fall under the category of cases mentioned in the Railway Board Circulars of 26th and 28th September, 2018 which can be processed now. Hence we find no merit in the present O.A. and it deserves to be dismissed.

8. The O.A. is dismissed because of unjustified delay and for lack of merit.

9. M.A.172/2018 for joint petition stands disposed of.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A).

H.

