

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

OA/050/00690/15

Date of Order: 13.05.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIKARIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

1. Bindeshwari Mahto son of late Khopri Mahto, Trackman under Section Engineer, Eastern Railway, jamalpur, District- Munger (Bihar).
.... Applicant.

By Advocate: - Shri M.P. Dixit

-Versus-

1. The Union of India, through the General Manager, Eastern Railway, Kolkata.
2. The Divisional Railway Manager, Eastern Railway, Malda Town.
3. The Divisional Personnel Officer, Eastern Railway, Malda Town,
4. The Senior Divisional Engineer (Co-ordination), Eastern Railway, Malda Town.

.... Respondents.

By Advocate: - Shri S.K. Ravi

O R D E R
[ORAL]

Per Jayesh V. Bhairavia, Member (Judl.):- The instant OA has been filed for non-issuance of appointment order in favour of his son under LARSSGESS Scheme therefore, the applicant in this O.A has prayed for a direction to the respondents for issuance of appointment order in favour of his son under LARSGESS Scheme on account of being declared successful in the result issued in the month of November 2014.

2. The brief facts of the case of the applicant is that he is working as Trackman under the Senior Section Engineer (P.Way) Eastern Railway, Jamalpur. The applicant applied under the LARSGESS scheme for appointment of his son pursuant to a Railway Board Policy decision dated 11.10.2010 (RBE 131/2010). The son of applicant was issued Admit card (Annexure A/1) and called for to appear in the written examination. The date of examination was scheduled to be held on 31.07.2013. The son of applicant appeared in the said examination. The result was published on 20.11.2014 (Annexure A/2) and the son of applicant was declared successful in written examination and his name find place at sl. No. 40 under Group -A column. The candidates who have been declared successful in the written examination are required to undergo medical test. However, till date neither any appointment letter has been issued nor any letter for undergoing medical test has been issued; hence this O.A.

3. The respondents have filed their written statement denying the claim of the applicant. The respondents further contended that Sri Bindeshwari Mahto, Trackman under SSE/P.Way/JMP(II) applied for retirement/recruitment under LARSGESS Scheme. The ward of the applicant who failed in 1st chance written examination were given 2nd chance for written examination held on 31.07.2013. Sri Mithelesh Kumar Mahto, son of Sri Bindeshwari Mahto was also allowed 2nd chance who appeared in the written examination on 31.07.2013. The respondents further submitted that Md. Khush Muhammad one of the applicants under

LARSGESS Scheme filed an OA No. 369/2013 before the CAT, Patna in which this Tribunal passed an interim order in the said O.A for which result of the said examination dated 31.07.2013 was kept pending. Finally result has been published on 20.11.2014 in which the ward of Sri Bindeshwari Mahto, Sri Mithilesh Kumar Mahta was found successful but Sri Bindeswari Mahato attained the age of 58 years 6 months being date of birth 30.04.1956 which is beyond the maximum permissible age limit i.e. 57 years for the scheme. Therefore his case could not be considered under the scheme. The I/c for respondents, therefore prayed that this O.A. beingh devoid of merit and substance deserves to be dismissed with cost.

4. We have heard the parties and perused the material on record. At the very outset it is required to state that the LARSGESS scheme was introduced by the respondent railway "prima facie, does not found to stand to the test of Article 14 and 16 of Constitution of India." It had directed the respondents that "before making any appointment under the offending policy, let its validity and sustainability be revisited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment." Thereafter, in its judgement dated 14.07.2017 in Review Petition the Hon'ble High Court reiterated its earlier direction and stated "such a direction was necessitated keeping in view the mandate of the Constitution Bench in **State of Karnataka Vs Uma Devi,(2006) 4 SCC 1.**

5. In the Appeal against the judgement of the Hon'ble High Court of Punjab & Haryana, the Hon'ble Supreme Court of India, while disposing of the SLP (C) No. 508/2018 vide its order dated 08.01.2018, declined to interfere with the directions of the High Court. Accordingly, the respondents had decided to terminate the LARSGESS scheme vide order RBE No. 150/2015 dated 26.09.2018 and subsequently, vide RBE No. 151/2018 dated 28.09.2018 it is stated that while the LARSGESS scheme continues to be on hold with effect from 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.

6. In the present case, it is noticed that the permissible age limit for the benefit under LARSGESS Scheme is 57 years but Shri Bindeshwari attained the age of 58 years and 6 months being the date of birth 30.04.1956 therefore, the relief as claimed by the applicant cannot be entertained in view of the terms of RBE No. 151/2018 hence the applicant is not entitled for any relief under LARSGESS Scheme. Accordingly, the O.A is dismissed with no order as to costs.

[Dinesh Sharma]

Administrative Member

mks

[Jayesh V. Bhairavia]

Judicial Member

