

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

OA/050/00001/16

Date of Order: 06.05.2019

C O R A M

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

1. Puran Chandra Singh son of late Yogesh Chandra Singh, Track Maintainer under Senior Section Engineer (P.Way) N.F. Railway, Kishanganj (Bihar).

.... Applicant.

By Advocate: - Shri M.P. Dixit

-Versus-

1. The Union of India, through the General Manager, North Frontier Railway, Maligaon (Guahati).
2. The General Manager (Personnel), North Frontier Railway, Maligaon (Guahati).
3. The Divisional Railway Manager, North Frontier Railway, Katihar (Bihar)
4. The Senior Divisional Engineer (Co-ordination), North Frontier Railway, Katihar (Bihar).
5. The Divisional Railway Manager (Personnel) North Frontier Railway, Katihar (Bihar).
6. The Senior Divisional Financial Manager, North Frontier Railway, Katihar (Bihar).

.... Respondents.

By Advocate: - Shri Bindhyachal Rai.
Shri Mukundjee

O R D E R
[ORAL]

Per Jayesh V. Bhairavia, Member (Judl.):- The applicant is aggrieved by the decision of respondents for not calling his son for

written/suitability test for appointment against Group-D post in the railway under LARSGESS scheme.

2. The brief facts of the case of the applicant is that he is working as Trackman now known as Track maintainer under the Senior Section Engineer (P.Way) N.F. Railway, Kishanganj. The applicant applied under the LARSGESS scheme for appointment of his son against Group-D post, pursuant to the Railway Board Policy decision dated 11.10.2010 (RBE 131/2010) on 29.01.2015 alongwith others. When the son of applicant was not called for written/suitability test and the other similarly situated employees son were called for and given appointment letter (dated 22.12.2015) he approached this Tribunal for a direction to the respondents to call for his son for written test and for issuance of appointment letter in favour of his son.

3. The respondents have filed their written statement denying the claim of the applicant. According to them, Shri Puran Chandra Singh, Track Maintainer-II (Erstwhile Mate) under SSE/P.Way /KNE had applied under LARSGESS phase Jan-June/2015. As Trackm Maintainer-III in GP Rs.1900 (Erstwhile Mate0 was not eligible under the scheme thus his name was kept in list of ineligible staff and informed accordingly. L/c for respondents submitted that the applicant was working as Track Maintainer-II in GP Rs.2400/- but at the time of submission of application under LARSGESS for the phase Jan-June/2015 he was working as Track Maintainer-III in Grade

Pay Rs.1900/- hence he was not found eligible for the benefit of LARSGESS scheme. The cut off date for reckoning eligibility criteria was 01.01.2015. The candidates who were found eligible were called for screening test and successful/suitable candidates were given appointment.

The I/c for respondents additionally submitted that now the applicant has been retired on attaining the age of superannuation and as per the law laid down by the Hon'ble Apex Court and as per the Provisions of RBE 151/2015, the applicant cannot claim any benefit under the said LARSGESS scheme.

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 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 applicant has retired on attaining the age of superannuation(not under the LARSGESS scheme) 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

