

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT SITTING AT RANCHI
OA/051/00050/19**

Date of Order: 10.01.2019

CORAM

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

K. Maneswara Rao, Son of Late K.K. Muri, aged about 59 years, now holding the post of LP(G) (Elect) RSO/BNDM, CKP Division, PO & PS- Chakradharpur, Dist.- Singhbhum (West), Pin No. 770032.

..... **Applicant.**

By Advocate: - Mrs. M.M. Pal, Sr. counsel with Kumari Reeta

-Versus-

1. Union of India through General Manager, S.E. Railway, Garden Reach, Kolkata-43.
2. Chief Personnel Officer, S.E. Railway, Garden Reach, Kolkata-43
3. Divisional Railway Manager, S.E. Railway, CKP Division, PO & PS- Chakradharpur, Dist.- West Singhbhum, Pin No. 833102.
4. Sr. Divisional Personnel Officer, S.E. Railway, CKP Division, PO & PS- Chakradharpur, Pin No. 833102, Dist.- West Singhbhum.
5. Asstt. Personnel Officer (Rectt), Garden Reach, S.E. Railway, Kolkata-43.

..... Respondents.

By Advocate: - Mr. Prabhat Kumar

ORDER
[ORAL]

Per Dinesh Sharma, A.M:- The applicant's case is that he had applied for appointment of his dependent under the LARSGESS vide notification dated 01.06.2015 . However, despite his moving from pillar to post and making several requests, a final order was communicated to him by letter dated 20.09.2017 (Annexure A/7) by which he was informed as follows: -

“The LARSGESS is a time bound exercise to be conducted in two cycles in a calendar year. If any cycle is not initiated, that Lapses, since the eligibility criteria is determined as per current cycle (1st Jan./1st July) and they follow one another in successive calendar years. Further, the staff who were eligible for consideration in some earlier cycles but for its non-initiation,

cannot be by default made eligible in a successive cycle, unless they meet the criteria as per the current cycle.

So you may apply for a cycle that is current if you are eligible as per the criteria of the same cycle."

2. The applicant has alleged that there were several cases before different CATs, High Courts and also before the Hon'ble Supreme Court and now steps have been taken to clear the backlog by Railway Board's RBE 150/2018 dated 26.09.2018 and RBE 151/2018 dated 28.09.2018. These orders are annexed at Annexure A/8 and A/9 of the OA. His request is for quashing the rejection order dated 20.09.2017 (Annexure A/7) and reconsideration of the case of his son for appointment under the scheme against notification dated 28.12.2015 and not to discriminate against him and to provide employment to his son vis a vis his retirement under this scheme.

3. This matter was heard at the initial stage. The learned counsel for the applicant reiterated what is mentioned in the OA and also submitted that appointments are still being considered by the Railway Board under the Scheme and his application should also be forwarded with direction to the respondents.

4. The learned Standing Counsel for the respondents (Railways) Shri Prabhat Kumar mentioned at this stage that the LARSGESS was put on hold on account of various court cases and since the passing of the order by the Hon'ble Supreme Court of India dated 08.01.2018 no appointments are being considered under the scheme. He also mentioned that, as stated in RBE No. 151/2018, in order to impart natural justice, the cases of only those persons who have already retired under LARSGESS before 24.10.2017 (but not naturally superannuated) and appointment of whose wards was not made due to various formalities,

appointment of such wards/candidates is being considered with the approval of the competent authority. The case of the applicant does not fall in this category.

5. We have gone through the averments made in this OA. After hearing counsels of both the parties at the stage of admission, we conclude that giving any direction to the respondents as requested by the applicant, will go against the spirit of the orders of the Apex Court on this matter, and is, therefore, not desirable. The request made in the petition to quash the rejection order of 20.09.2017 will not serve any purpose. Any direction to consider his case under a Scheme, which has been found to be *prima facie* violative of the Constitution of India, will not only improper but illegal. Therefore, the OA is dismissed at the admission stage itself.

No order as to costs.

[**Dinesh Sharma**]
Administrative Member
Sr.k.

[**Jayesh V. Bhairavia**]
Judicial Member