

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA 4045/2016

This the 29th Day of January, 2019

Hon'ble Mr. Pradeep Kumar, Member (A)

1. Smt. Magina, Aged 58 years,
W/o Late Sh. Ram Shanker,
Working as Helper Khallasi,
Presently posted in Railway Electrification,
GM Camp. Office, RE Rest House,
Tilak Bridge, New Delhi-01
R/o RE Rest House, Tilak Bridge, New Delhi

2. Sushil Kumar Sharma, Aged 31 years,
S/o Late Sh. Ram Shanker,
R/o RE Rest House, Tilak Bridge,
New Delhi

....Applicants

(By advocate: Mr. Yogesh Sharma)

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
State Entry Road, New Delhi
3. The Deputy General Manager (P&E),
Central Organization for Railway Electrification,
Nawab Yusuf Road, Allahabad

....Respondents

(By advocate: Mr. S.M. Arif)

ORDER (ORAL)

The instant case has been filed by one Smt. Magina and her son, seeking appointment for their dependent son under Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) Scheme. The applicant pleads that she was working as Helper/Electrical under Central Organization for

Railway Electrification (CORE). CORE being a project organization, her lien was fixed on Delhi Division of Northern Railway.

2. The respondent Railway had introduced a safety related retirement scheme policy vide directive No. R.B.E 04/2004 on 02.01.2004, for offering appointment to such of the train driver or gangmen, who seek voluntary retirement on account of their age, which results into age related slow reaction time and which may result into unsafe conditions for their personal safety as well as that of running trains. Under this scheme, such staff in the age group of 50 to 57 years could seek retirement and request appointment on the same category, for one of their ward.

This scheme was subsequently extended to some other categories also vide respondents policy circular No. R.B.E 131/2010 issued on 11.09.2010. This was subsequently further modified by the respondent Railway vide R.B.E 31/2014 issued on 24.03.2014 wherein the provisions of LARSGESS were extended to "Electrical Power Staff working on track" also.

The applicant pleads that her case is covered under para D item 1 of RBE 131/2010, which deals with Mechanical and Electrical Departments wherein Khallasi/Khallasi helpers are covered and item 2(i) of RBE 31/2014.

3. The applicant pleads that her case is squarely covered under LARSGESS as above. In respect of such appointment for her son, the proposal was sent by CORE to Delhi Division vide CORE letter

dated 25.02.2014, where the applicant had lien. Thereafter the applicant was advised in the year 2015 for medical examination of her son, who is the second applicant in instant OA. The requisite fee for this medical examination was also deposited on 21.04.2015. However, the memo to conduct the medical examination was not issued. She made a representation also vide her letter dated 30.07.2015 which has not been replied to so far. Feeling aggrieved, the instant OA has been preferred.

4. The respondents represented that the relevant policy directive for LARSGESS Scheme, as per R.B.E 31/2014 dated 24.03.2014, specifically provided that only those “Electrical Power Staff who are working on track” are eligible for such a scheme. As against this, the applicant was working as electrical helper in CORE, which is a project organization that deals with new construction and CORE staff does not face the conditions of “working on track” and hence the applicant was not eligible for LARSGESS at the relevant point of time.

5. The respondents further drew attention to the policy directives issued by the Ministry of Railway under R.B.E No. 150/18 issued on 25.09.2018. The same reads as under:-

“The Hon’ble Punjab and Haryana High Court in its judgement dated 27.04.2016 in CWP No. 7714 of 2016 had held that the Safety Related Retirement Scheme 2004 (later renamed as the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) 2010) “prima facie does not stand to the test of Articles 14 and 16 of the Constitution of India” it had directed ‘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 judgment dated 14.07.2017 (Review Petition RA-CW-330-2017 in CWP No. 7714 of 2016), 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.

1.1 In the Appeal against the judgment 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.

2. In compliance with the above directions, Ministry of Railways have revisited the scheme duly obtaining legal opinion and consulted Ministry of Law & Justice. Accordingly, it has been decided to terminate the LARSGESS Scheme w.e.f. 27.10.2017 i.e. the date from which it was put on hold. No further appointments should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.17 (but not normally superannuated) and their wards could not be appointed due to the Scheme having been put on hold in terms of Board’s letter dated 27.10.17 though they had successfully completed the entire process and were found medically fit. All such appointments should be made with the approval of the competent authority.”

6. As per these directions of 25.09.2018, the LARSGESS Scheme has itself been terminated. It is not available to any of the staff.

7. In the instant case the applicant Ms. Magina was not superannuated at that time. As such the benefit of LARSGESS cannot be made available to her now. The instant OA is thus not maintainable on merit or on fact. Accordingly it was pleaded that this OA be dismissed.

8. Matter has been heard at length. Mr. Yogesh Sharma, learned counsel pleaded for applicants and Mr. S.M. Arif, learned counsel

pleaded for respondents. MA No. 3621/2016 for joining together is allowed.

9. The LARSGESS Scheme was introduced by Railways in respect of certain safety categories of staff where the reaction time of staff was required to be kept at a level so that not only the personal safety of staff concerned but also that of the running trains is not jeopardized. It is mentioned here that with age, the reaction time increases and it may lead to unsafe conditions. It was with this in view that the scheme was introduced in respect of the loco driver who is driving the train, and the Gangman who have to work on track where trains keep running.

10. Subsequently the scheme was extended to some other staff also, however, it was specifically provided that only those staff who are working on track will be eligible. The applicant herein was working as a electrical helper in CORE. This in an organization which is involved in the construction projects where the staff is not exposed to working on track. Moreover, the entire scheme of LARSGESS itself, has since been withdrawn vide instructions dated 25.09.2018 as a result of adjudication at the level of Hon'ble High Court and Hon'ble Apex Court.

11. Accordingly, nothing remains in the present OA at this stage. The instant OA is dismissed being devoid of merit. No costs.

(Pradeep Kumar)
Member (A)

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