

Open CourtCENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD(This the **15th Day of May**, 2019)**Hon'ble Mr. Rakesh Sagar Jain, Member (Judicial)**
Hon'ble Mr. Pradeep Kumar, Member (Administrative)**Original Application No.330/00859/2015**
(U/S 19, Administrative Tribunal Act, 1985)Brahm Dutt Mishra, S/o Late Ramashanker Mishra, R/o House No.109C,
Jaggannathpur (Gorakhpur City), District Gorakhpur, Presently posted on
the post of Katawala North East Railway, Khadda, District - Khushinagar...... **Applicant****By Advocate: Shri M.K. Dhruvanshi**

Versus

1. Union of India through its Secretary, Ministry of Railway (Rail Bhawan)
New Delhi.
2. The General Manager, North East Railway, Gorakhpur.
3. The Divisional Manager, North East Railway, Varanasi Division,
Varanasi.
4. The Divisional Railway Manager (Personnel), North East Railway,
Varanasi.
5. The Divisional Chief Rail Traffic Officer (Parichalan), North East
Railway Varanasi, Division Varanasi.

..... **Respondents****By Advocate: Shri R.P. Singh****ORDER****Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member (Judicial)**The applicant has filed this O.A. under section 19 of Administrative
Tribunals Act, 1985 seeking following reliefs:-

- “(i) The Hon'ble Tribunal may graciously be pleased to pass an order quashing the impugned dated 19.03.2015 passed by the Divisional Railway Manager (Personnel), North East Railway, Varanasi (Annexure-6) to the compilation-1.**

- (ii) ***The Hon'ble Tribunal may graciously be pleased to issue an order commanding to the respondents particularly respondent No.4 to consider the application of the applicant moved under Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) Scheme and permit the applicant to retire and in place thereof his dependent/son namely Ajay Kumar Mishra S/o Brahm Dutt Mishra may be provided suitable job as per his qualification.***
- (iii) ***The Hon'ble Tribunal to issue such other and further order or direction which this Hon'ble Tribunal may deem fit and proper in the nature and circumstances of the present case.***
- (iv) ***The Hon'ble Tribunal may graciously be pleased to allow heavy cost in favour of the applicant."***

2. The applicant has been inducted into the service of the department as Pointman in the year 1979 and has been posted at Railway Station Khadda which comes under the North East Railway, Varanasi Division. It is stated that applicant applied for VRS under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS) but respondents have rejected the claim of the applicant. Therefore, he has been compelled to file the present OA.

3. Learned counsel for the applicant submitted that the claim of the applicant under LARSGESS Scheme has been cancelled on the ground that applicant had not completed 33 years service while this condition had been given by the Railway Board order dated 28.06.2011 as such impugned order does not sustain and liable to be quashed. He further submitted that a direction be given to the respondents to consider the claim of the applicant in the light of Railway Board Circular dated 28.09.2018 as well as the Hon'ble Supreme Court order dated 26.03.2019.

4. It appears that Railway was running a Scheme known as Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

5. Main relief in the OA is appointment of the applicant/dependent of the applicant, who is a railway servant, who claims his entitlement under the Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff.

6. The issue of LARSGESS Scheme was examined by Hon'ble Punjab and Haryana High Court in CWP No.7714/2016 arising out of the order passed by Chandigarh Bench of this Tribunal in the case of **Kala Singh and others vs. Union of India and others in OA No.060/656/2014**. While disposing of the CWP No.7714/2016, Hon'ble High Court vide the judgment dated 27.04.2016 held that the LARSGESS Scheme does not stand the test of the Article 14 and 16 of the Constitution of India and the Railway Board was directed to re-consider the said Scheme. The Review petition filed by the respondents was also dismissed by Hon'ble High Court vide order dated 14.07.2017. Subsequently the Railway Board challenged the order of Hon'ble High Court before Hon'ble Supreme Court in the SLP (C) No.508/2018 and vide order dated 08.01.2018, the Hon'ble Supreme Court declined to interfere with the order of Hon'ble High Court.

7. Thereafter, the Railway Board has reviewed the LARSGESS Scheme as per the direction of Hon'ble Punjab and Haryana High Court and vide its order dated 26.09.2018 (R.B.E. No.150/2018) has decided as under:-

"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 appointment should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.2017 (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 27.10.2017 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."

8. Subsequently, another Circular dated 28.09.2018 (RBE No.15/2018)

was issued. The contents of circular is reproduced as below:-

"In supersession to Railway Board's letter No.E(P&A)1-2015/RT-43 dated 26.09.2018, it is stated that while the LARSGESS Scheme continues to be on hold with effect from 27.10.2017 on account of various court cases, to impact natural justice to the staff who have 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."

9. Thus the LARSGESS Scheme has been terminated with effect from 27.10.2017 and only the cases where the employees have already retired under LARSGESS before 27.10.2017 which is not normal superannuation and whose case could not be considered because of the order of the Railway Board to put the Scheme on hold can be considered under the Scheme.

10. In view of the circumstances as discussed above, this OA is finally disposed off by remitting the matter to the competent authority among the respondents to consider the case of the applicant in the light of the Railway Board order dated 26.09.2018 (R.B.E. No.150/2018) as well as Circular dated 28.09.2018 (RBE No.15/2018) and to pass an appropriate speaking order under intimation to the applicant within three months from

the date of receipt of a copy of this order. The respondent would also consider the submissions made by learned counsel for the applicant in aforementioned paragraph No. 3 while disposing of the case. It is made clear that we have not expressed any opinion about the merit of the case while passing this order. There will be no order as to costs.

(Pradeep Kumar)
Member (A)

(Rakesh Sagar Jain)
Member (J)

RKM/