

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

Original Application No. 330/817/2016

This is the *07th* day of *August 2019*.

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)
HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

1. Kali Charan S/o Nathu, R/o 15, School Pura, Prem Nagar, Nagara, District-Jhansi.
2. Krishna Bihari S/o Kali Charan, R/o 15, School Pura, Prem Nagar, Nagara, District-Jhansi.

.....Applicants

By Advocate: Shri D C Dwivedi

Versus

1. Union of India through Divisional Railway Manager, North Central Railway, Jhansi Division, Jhansi.
2. The Divisional Railway manager/Personnel, North Central Railway, Jhansi Division, Jhansi.
3. The Senior Divisional Engineer, North Central Railway, Jhansi Division, Jhansi.
4. The Assistant Divisional Engineer, North Central Railway, Jhansi.

.....Respondents

By Advocate : Shri R K Srivastava

O R D E R

Delivered by : Hon'ble Ms. Ajanta Dayalan, Member (A)

Heard Shri D C Dwivedi, learned counsel for the applicants and Shri R K Srivastava, learned counsel for the respondents.

2. The applicants have filed this Original Application for a direction to the respondents to consider request of applicant no. 1 for V.R.S and granting appointment to applicant no. 2 i.e., his son under LARSGESS Scheme.

3. Learned counsel for the applicants states that applicant no.1 i.e., Shri Kali Charan being eligible under the LARSGESS Scheme made an application in 2012 (Annexure A-1) for his voluntary retirement and appointment of his son Krishna Bihari. The department issued admit card dated 14.10.2013 (Annexure No. A-8 to the OA) calling the son of the applicant no. 1 for appearing in the examination to be conducted on 09.11.2013. In this admit card the caste of the son was shown as OBC. Thereafter, on 10.12.2013 (Annexure No. A-9 to the OA), the department issued another admit card calling the son of the applicant no.1 to appear in the examination to be conducted on 28.12.2013. In this admit card, the caste of his son was shown as "Unreserved". The grievance of the applicants is that the applicant no. 1 had applied for appointment of his son under the LARSGESS Scheme under the O.B.C. quota. However, in the admit card (Annexure No. A-9 to the OA) the son of the applicant was shown as an unreserved candidate due to which he could not succeed in the examination as he could not secure the required marks. The applicant no. 2 submitted several representations (Annexure No. A-2, A-3, A-4, A-5 and A-6 to the OA) to the respondents in this regard. However, it is stated that no reply was furnished by the respondents.

4. It is observed that the LARSGESS Scheme itself has been reviewed and has been terminated in the light of the order of Hon'ble Supreme Court in the SLP (C) No. 508/2018 and as such any order under this scheme needs to be reviewed in the light of the Railway Board's revised instructions dated 26.09.2018 (R.B.E. No. 150/2018) and dated 28.09.2018 (RBE No. 15/2018).

5. 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 8.1.2018, Hon'ble Supreme Court declined to interfere with the order of Hon'ble High Court.

6. 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 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."

7. 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 cases, to impart 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."

8. 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 but who are not normally superannuated 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.

9. In view of the circumstances as discussed above, this OA is finally disposed of by remitting the matter to the competent authority amongst the respondents to consider the case of the applicants 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 applicants within three months from the date of receipt of a copy of this order.

10. It is made clear that we have not expressed any opinion about the merit of the case while passing this order.

11. There will be no order as to costs.

MEMBER-J

MEMBER-A

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