

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

This is the 16TH day of **MAY, 2019**.

ORIGINAL APPLICATION NO. 1131 of 2014

HON'BLE MS AJANTA DAYALAN, MEMBER (A).
HON'BLE MR ASHISH KALIA, MEMBER (J)

1. Shankar S/o Late Brighrasan, R/o C/o Kamal Kishore Prasad House
No. 229 P Gayatri Nagar Kurnaghat, Gorakhpur.
.....Applicant.

VERSUS

1. Union of India through General Manager, N.E.R. Gorakhpur.
2. The Divisional Rail Manager (Personne), N.E.R., Ashok Marg,
Lucknow
.....Respondents

Advocate for the Applicant : Shri S K Rai
Advocate for the Respondents : Shri M K Yadav

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

Heard Shri S K Rai, learned counsel for the applicant and Shri M K Yadav, learned counsel for the respondents are present.

2. The applicant has filed this Original Application for quashing the order dated 21.01.2014 (Annexure No. A-1) rejecting the request of the applicant for voluntary retirement and appointment of his son under the LARSGESS Scheme and also sought to consider the claim of the applicant and to decide the representation dated 11.02.2014 (Annexure A-3).

3. The Railway was running a Scheme known as Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

4. As per the OA, the applicant Shankar who was working as Khalasi, applied for voluntary retirement in January 2013 under the LARSGESS and also for appointment of his son Harikesh Kumar under the said Scheme. The son of the applicant qualified the written test but was

restrained from appearing in medical examination on the ground of promotion of his father in Class-III post. In this regard, the applicant filed a representations dated 01.02.2014 and 11.02.2014 (Annexure No. A-3 to the OA) before the respondents. Learned counsel for the applicant states that no action has been taken by the respondents on the representations dated 01.02.2014 and 11.02.2014. Learned counsel for the applicant also states that the grievance of the applicant would be redressed if a direction is given to the competent authority to consider the claim of the applicant in accordance with 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).

5. Main relief in the OA is for issuing a direction to the competent authority amongst the respondents to decide the representation dated 11.02.2014 by passing a speaking order within a time bound manner.

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 8.1.2018, 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 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."

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 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."

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 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.

10. In view of the circumstances as discussed above, this OA is finally disposed of 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.

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

12. There will be no order as to costs.

(ASHISH KALIA)
MEMBER-J

Arun..

(AJANTA DAYALAN)
MEMBER-A