

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

This is the 18TH day of *JULY, 2019*.

ORIGINAL APPLICATION NO. 1533 OF 2016

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

1. Sanjai Kumar, aged about 30 years, S/o Sri Ram Kripal, R/o Vill-Sahopar, P.O.-Bhatni, Distt-Deoria.
2. Sri Ram Kripal, Aged about 57 years, S/o Rajpati, R/o Vill-Sahpar, P.O.-Bhatni, Distt-Deoria.

.....Applicants.

VERSUS

1. Union of India, through, the General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, North Eastern Railway, Gorakhpur Division, Gorakhpur.
3. The Sr. Divisional Personnel Officer, North Eastern Railway, Gorakhpur Division, Gorakhpur.
4. The Senior Assistant Divisional Engineer (East), North Eastern Railway, Gorakhpur Division, Gorakhpur.
5. The Senior Section Engineer (P-Way), North Eastern Railway, Bhatni.

.....Respondents

Advocate for the Applicants : Shri Satish Sahu, proxy counsel for
Shri Pankaj Srivastava

Advocate for the Respondents : Shri M K Yadav

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

Heard Shri Satish Sahu, proxy counsel for Shri Pankaj Srivastava learned counsel for the applicants and Shri M K Yadav, learned counsel for the respondents.

2. The brief facts of the case as per the OA are that the applicant no 2. i.e., Shri Ram Kripal, father of applicant no. 1 i.e., Sanjai Kumar entered Railway services on 07.09.1989.

3. The Railways introduced a Scheme known as Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff in 2010 (in short LARSGESS).

4. In the year 2012, the applicant no. 2 was posted as Gangman and he attained 55 years of age in the same year. Thereafter, he submitted an application for VRS and appointment of his son Sanjai Kumar in his place under the LARSGESS Scheme on 24.01.2012 (Annexure No. A-1 to the OA).

5. The case was processed but the applicants were not communicated anything about appointment of applicant no. 1. The applicant no. 2 thereafter, on 16.07.2015 (Annexure No. A-2 to the OA) approached respondent no. 2. However, there has been no response even thereafter and the applicants are still waiting for employment of applicant no. 1.

6. Main relief in the OA is for issuing a direction to the competent authority amongst the respondents to decide the representation dated 16.07.2015 (Annexure No. A-2 to the OA) by passing a speaking order within a time bound manner.

7. 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.

8. 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."

9. 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."

10. 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.

11. 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.

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

13. There will be no order as to costs.

(RAKESH SAGAR JAIN)
MEMBER-J

(AJANTA DAYALAN)
MEMBER-A

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