

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH**

ALLAHABAD

This is the 11th day of **JULY, 2019.**

ORIGINAL APPLICATION NO. 330/1046/2016

HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

Chokat Tiwari a/a 45 years son of Late Vishwanath Tiwari resident of Dighawa Saraya, Post Vijayipur District-Gopalganj, Bihar presently posted as Gateman Bhatani Junction NER Varanasi.

.....Applicant.

VERSUS

1. Union of India through its Secretary, Ministry of Railways, New Delhi.
2. Divisional Rail Manager (Karmik) North Eastern Railway, Varanasi.
3. General Manager Northern Eastern Railway Gorakhpur.
4. Station Superintendent Bhatani Junction North Eastern Railway Gorakhpur.

.....Respondents

Advocate for the Applicant : Shri Laxmi Narayan Mishra.

Advocate for the Respondents : Shri Chanchal Kumar Rai.

ORDER

(Delivered by Hon'ble Mr. Justice Bharat Bhushan, Member (J))

Shri Laxmi Narayan Mishra, learned counsel for the applicant and Shri Chanchal Kumar Rai, learned counsel for the respondents are present.

2. The applicant has filed this Original Application for the following reliefs:-

- “(I) *To issue a writ, order or direction in the nature of certiorari quashing the order dated 19.01.2016 passed by the respondent No. 2 whereby the representation of the petitioner for counting the working days as substituted employee has been refused.*
- (II) *To issue a writ order or direction in the nature of mandamus commanding the respondent no. 2 consider the claim of the petitioner and add the services of the petitioner rendered by him as work charge employee for all the purposes including the payment of service dues and consideration of the claim under LARGESS Scheme.*
- (III) *To issue such other and further writ order or direction as this Hon’ble Tribunal/Court may deems fit and proper under the facts and circumstances of the case.*
- (IV) *To award the costs of instant application in favour of applicant.”*

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

4. The applicant Chokat Tiwari was appointed as Gateman in North Eastern Railway on daily wager basis. However, he was given temporary status in the year 1988. Subsequently, his services were regularized on 26.09.1997. It is stated that on 11.09.2010 the Railway Board introduced a Scheme providing the employment to the dependent of the employees under Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS). In the year 2015 again the applications were invited from the prospective incumbents who were interested in taking the benefit of LARSGESS Scheme. The applicant also applied for his voluntary retirement as well as appointment of his son under the scheme. Failing in his endeavour, the applicant was constrained to file the present OA.

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 Liberalised 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 reconsider 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/RT43 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, 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 No.330/1046/2016 is finally disposed off by remitting the matter to the competent authority to consider the case 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 four months from the date of receipt of a copy of this order. 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.

(AJANTA DAYALAN)
MEMBER-A

(JUSTICE BHARAT BHUSHAN)
MEMBER-J

/SS/