CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

MISC. APPLICATION NO. 291/702/2018
IN
(ORIGINAL APPLICATION NO. 291/14/2018)

Order reserved on 26.09.2019

DATE OF ORDER: 18.10.2019

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER

Badan Singh Son of Shri Kishan Lal, aged about 57 years, resident of Village-Vidyapur, Post-Kiravali, Distt. Agra (UP), at present holding of Sr. Gang man (Track Man), under SSE (P Way) Bharatpur, unit No. 83 Gang, Bharatpur, WCR.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (MP) – 482001.
2. Assistant Divisional Engineer, West Central Railway (WCR), Bharatpur Jn. Bharatpur.

....Respondents

Mr. Anupam Agarwal, counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

The present Misc. Application has been filed by the applicant seeking revival of the Original Application No. 291/14/2018 which was disposed of by this Tribunal on 23.03.2018 with the observations that after re-visitation of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) by the Railways in terms of the directions issued by the Hon'ble Supreme Court, if any party feels aggrieved, the

matter can be re-agitated in accordance with law before the competent forum having jurisdiction over the matter.

2. It has been averred that the Railways have now issued an order dated 26.09.2018 (Annexure MA/3) whereby the LARSGESS Scheme has been terminated with effect from 27.10.2017 with a further direction to allow appointments to the wards of employees on certain conditions. It has further been averred that in supersession of order dated 26.09.2018, the Railways have issued a further order dated 28.09.2018 (Annexure MA/4) wherein further directions are issued to give appointments to the wards of the employees. It has further been stated that the Railways are now permitting benefit of the scheme uptil 27.10.2017. In view of the letters dated 26.09.2018 (Annexure MA/3) and 28.09.2018 (Annexure MA/4), a prayer for revival of the Original Application has been made.

3. The respondents, while filing a detailed reply to Misc. Application, have opposed the prayer made therein. It has been pleaded that the applicant was never aggrieved of the order passed by this Tribunal vide which the O.A. was disposed of as he did not challenge the same. It has further been averred that issuance of order dated 28.09.2018 (Annexure MA/4) by the Railway Board does not give any cause to the applicant to seek revival of the O.A. Neither any liberty was given to the applicant by this Tribunal to get the Original Application revived while disposing it of. With all these assertions, the respondents have prayed for dismissal of the present Misc. Application.

4. During the course of arguments on 11.09.2019, learned counsel for the respondents pointed out that after issuance of RBE No. 151/2018 on 28.09.2018, the Railway Board has also issued RBE No. 39/2019 dated 05.03.2019 followed by an order dated 12.07.2019 stating therein that the matter has been considered in the Board's office and it has now been decided that if any individual representations are received in the light of Hon'ble Apex Court's orders dated 06.03.2019, 26.03.2019 and 22.04.2019, the Railways shall examine and dispose of each individual representation based on the factual matrix of the case. Since none of the parties had placed on record RBE No. 39/2019 dated 05.03.2019, the Railway Board's subsequent order dated 12.07.2019 and the orders passed by the Hon'ble Apex Court on 06.03.2019, 26.03.2019 and 22.04.2019, therefore, the respondents were directed to file a detailed affidavit narrating therein the further proposed action after issuance of RBE No. 39/2019 dated 05.03.2019 and the orders passed by the Hon'ble Apex Court on 06.03.2019, 26.03.2019 and 22.04.2019.

5. Consequent thereto, the respondents filed an additional affidavit dated 24.09.2019 in a connected case i.e. M.A. No. 291/627/2018 in OA No. 291/132/2016, which has been adopted by them in the present Misc. Application as well. In the said additional affidavit, it has been stated that subsequent to order dated 28.09.2018, the Railway Board vide RBE No. 39/2019 dated 05.03.2019 has terminated the LARSGESS Scheme with effect from 27.10.2017 with the direction that no further appointment shall be made under the Scheme subject to the

condition mentioned in para 2 of the said RBE. It has further been stated that the Hon'ble Supreme Court has accepted the said RBE vide order dated 06.03.2019 passed in the case of **Union of India & Ors. vs. Kala Singh & Ors.** The respondents still further stated that after the aforesaid order dated 06.03.2019, some of the employees namely Narinder Siraswal and others preferred Writ Petition (Civil) No. 219/2019 before the Hon'ble Supreme Court, which was disposed of on 26.03.2019. The said order was followed yet in another Writ Petition (Civil) No. 448/2019, which was disposed of by the Hon'ble Supreme Court on 22.04.2019. Consequently, the Railway Board has issued an order dated 12.07.2019, according to which, if any individual representations are received, the Railways shall examine and dispose of the same based on the factual matrix of the case. It has further been averred in the affidavit that the concerned Railways are under obligation to consider the representations of the employees pertaining to the cycles pending prior to 27.10.2017 and those representations will be decided on the basis of factual matrix of the case.

6. We have heard learned counsels for the parties at a considerable length and perused the record.

7. The Original Application was disposed of by this Tribunal on 23.03.2018 with the observations that after re-visitation of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) by the Railways in terms of the directions issued by the Hon'ble Supreme Court, if

any party feels aggrieved, the matter can be re-agitated in accordance with law before the competent forum having jurisdiction over the matter. The Railways, after re-visitation of the LARSGESS Scheme, came out with RBE No. 150/2018 dated 26.09.2018 stating therein that the Ministry of Railways has re-visited the Scheme and, accordingly, it has been decided to terminate the LARSGESS Scheme with effect from 27.10.2017 i.e. the date from which it was put on hold. In supersession of said RBE, the Railway Board issued another RBE No. 151/2018 dated 28.09.2018 stating therein that to impart natural justice to the staff, who have already retired under LARSGESS Scheme before 27.10.2017 and appointments of whose wards were not made due to various formalities, appointments of such of the wards / candidates can be made with the approval of the competent authority.

8. The Railway Board issued yet another RBE No. 39/2019 dated 05.03.2019 stating therein that the LARSGESS Scheme has been terminated with effect from 27.10.2017 and, therefore, no further appointments shall be made under the Scheme subject to the condition mentioned in para 2 of the said RBE. RBE No. 39/2019 dated 05.03.2019 was produced by the Railways before the Hon'ble Supreme Court in the case of **Union of India & Ors. vs. Kala Singh & Ors.**, (IA No. 18573/2019 in MA No. 346/2019 in MA No. 1202/2018 in Petition for Leave to Appeal No. 508/2018) and while accepting the same, the Hon'ble Supreme Court disposed of the matter on 06.03.2019 (Annexure R/2) with the observations that since the Scheme stands terminated and is no longer in existence, nothing further need to

be done in the matter. However, the matter was still agitated in Writ Petition (Civil) No. 219/2019 before the Hon'ble Supreme Court in the case of **Narinder Siraswal and Ors. vs. Union of India & Anr.** and while disposing of the said Writ Petition on 26.03.2019 (Annexure R/3), the Hon'ble Supreme Court gave liberty to the petitioners therein to approach the concerned authorities with the appropriate representations and the respondents/authorities were directed to consider the same within a period of two weeks on preferring the representations by those petitioners. The said order was further followed in Writ Petition (Civil) No. 448/2019 **Tarun Chowdhury & Ors. vs. Union of India & Anr.**, which was disposed of on 22.04.2019 (Annexure R/4).

9. Keeping in view the terms of RBE No. 39/2019 dated 05.03.2019 and the subsequent orders passed by the Hon'ble Supreme Court on 26.03.2019 in Writ Petition (Civil) No. 219/2019 and on 22.04.2019 in Writ Petition (Civil) No. 448/2019, the Railway Board has issued an order dated 12.07.2019 (Annexure R/5) wherein it has been decided that if any individual representations are received in the light of the Hon'ble Apex Court's order dated 06.03.2019, 26.03.2019 and 22.04.2019, the Railways shall examine and dispose of each individual representation based on the factual matrix of the case.

10. Following the terms of the Railway Board's order dated 12.07.2019, the respondents have now undertaken in their additional affidavit dated 24.09.2019 that if any individual

representations are received, the Railway shall examine and dispose of the same based on the factual matrix of each case as they are under obligation to consider those representations of the employees pertaining to the cycles pending prior to 27.10.2017. In view of the said undertaking given by the respondent-authorities, we do not see any reason to revive the Original Application as has been prayed by the applicant in the present Misc. Application.

11. Accordingly, the present Misc. Application is disposed of with the observations that if the applicant files a representation within a period of one month from the date of receipt of a certified copy of this order, the same shall be considered by the respondents in terms of their undertaking given in their additional affidavit dated 24.09.2019 and a reasoned and speaking order shall be passed in accordance with law within a period of two months thereafter. Before taking such a decision, the applicant shall also be afforded an opportunity of hearing.

12. Ordered accordingly. No order as to costs.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

Kumawat