

(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 330/00280/2016

This the **22nd** day of **October 2019**.

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

1. Benchey Khan, aged about 58 years, S/o Late Shri Hadyar Khan, working as Helper Grade-I under Senior Section Engineer (P.Way), N.E. Railway, Izzatnagar, R/o 80, Govindpur C.B. Ganj, Sadar Bareilly (U.P.).
2. Uvaish Khan, aged about 26 years, S/o Shri Benchey Khan, R/o 80, Govindpur C.B. Ganj, Sadar Bareilly (U.P.) .

.....Applicants

By Advocate: Shri S.K. Kushwaha

Versus

1. Union of India through General Manager, North Eastern Railway, Headquarter Office, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izzatnagar Division, Izzatnagar Bareilly (U.P.).
4. Senior Divisional Personnel Officer, North Eastern Railway, Izzatnagar, Bareilly (U.P.)
5. Senior Section Engineer (P. Way), North Eastern Railway, Izzatnagar, Bareilly.

.....Respondents

By Advocate: Shri K.P. Singh
Shri L.M. Singh

O R D E R

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

Heard Shri S.K. Kushwaha, learned counsel for the applicants and
Shri K.P. Singh and Shri L.M. Singh, learned counsels for the respondents.

2. The applicants have filed this Original Application seeking direction to the respondents to consider the claim of the applicant no. 1 for voluntary

retirement and for appointment of applicant no. 2 under LARSGESS Scheme.

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, applicant No. 1 who was working as Helper Grade-I under the respondents, applied for voluntary retirement under the LARSGESS and also for appointment of his son i.e. applicant No. 2 under the said Scheme vide his application dated 31.07.2014 (Annexure A-6) enclosing all relevant certificates. It is stated that the appointment to the wards of several employees, who were considered alongwith the applicant, were given but the respondents have acted negligently towards the claim of the applicant. Being aggrieved by the negligent attitude of the respondents, the applicant No. 1 made a representation dated 05.01.2016 (Annexure A-11) before respondent no. 2. Thereafter, the respondents issued a letter dated 21.01.2016 (Annexure A-12) informing the applicants that the claim under LARSGESS Scheme would be considered under 7th and 8th cycle in 2nd opportunity. All of sudden, the respondents vide impugned order dated 27.01.2016 (Annexure A-1) closed the remaining proceedings of different cycles and asked for fresh application for appointment under LARSGESS Scheme. Learned counsel for the applicants states that the applicant no. 2 has already been declared medically fit (Annexure RA-1). He has also cited a judgment of Hon'ble Supreme Court dated 26.03.2019 passed in Writ Petition (Civil) No. 219/2019 – Narinder Siraswal & Ors. Vs. Union of India & Anr. Learned counsel for the applicants states that the grievance of the applicants would be redressed if a direction is given to the competent authority to consider the claim of the applicants 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 to allow voluntary retirement of applicant No. 1 and to appoint applicant No. 2 in place of his father under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

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 are 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 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.

10. 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.

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.

MEMBER-J

MEMBER-A

Anand...