

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/1252/2014

Date of Order: 11.11.2019

Between:

1. M. Yesurathnam, S/o. late M. Anandam,
Age 62 years, Occ: Rtd. Railway Employee,
R/o. 8/376, Bandimotu Street,
Gooty Railway Station,
Gooty, Anantapuram District.
2. M. Sudhakar Rao, S/o. M. Yesurathnam,
Age 32 years, Occ: Unemployee,
R/o. 8/376, Bandimotu Street,
Gooty Railway Station,
Gooty, Anantapuram District.

... Applicants

And

1. Union of India,
Ministry of Railways,
Rep. by the Chairman,
Railway Board, New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
Head Quarters Office,
Personal Branch,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Senior Personnel Officer (M&E),
Head Quarters Office,
Personal Branch,
South Central Railway,
Rail Nilayam, Secunderabad.
5. The Divisional Railway Manager (Personnel),
South Central Railway, Guntakal.

... Respondents

Counsel for the Applicants ... Mr. V. Sudhakar Reddy

Counsel for the Respondents ... Mrs. M. Venkateswari, SC for Rlys

CORAM:

Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The first applicant was employed as Loco Pilot and the 2nd applicant is his son. Railways introduced Voluntary Retirement Scheme (VRS) for the Loco Pilots and Trackmen in the age group of 50 & 57 years in 2004. Eligible candidates were entitled to nominate their children for appointment in their place, subject to their clearing the eligibility and other tests. The 1st applicant submitted his application on 30.07.2010. It is stated that the 2nd applicant also cleared the prescribed test. The list of selected candidates was displayed on 17.07.2012 and the name of the 2nd applicant figured therein. However, by the time the orders of appointment were issued to the selected candidates, the 1st applicant is said to have caused an accident involving huge loss of life and property. Disciplinary proceedings were initiated against him and order of removal was passed by the disciplinary authority. It is stated that the appellate authority modified the same into that of 'compulsory retirement'. When a representation was made by the applicant on 22.04.2014, a reply was given on 12.05.2014 stating that the benefit under the LARSGESS Scheme cannot be extended to him since he has not voluntarily retired, but was compulsorily retired as a measure of penalty. This OA is filed challenging the said order.

2. Applicants contend that had the steps been taken at the relevant point of time, such an impediment would not have existed and there are also instances where the dependents of the employees who were imposed penalty of compulsory retirement were also extended the benefit.

3. Respondents filed a counter affidavit opposing the OA. It is stated that the benefit under the Scheme can be extended only in such cases where an existing employee retires and the selected candidate gets appointed and both the things must take place simultaneously. It is also stated that the LARSGESS Scheme has been set aside by the Hon'ble Supreme Court and as such, no benefit under the Scheme can be extended.

4. We heard Mr. V. Sudhakar Reddy, learned counsel for the applicants and Mrs. M. Venkateswari, learned Standing Counsel for the respondents.

5. The case of the applicants was in fact, considered and the name of the 2nd applicant also figured in the list. However, on account of the accident that took place in May 2012, disciplinary proceedings were initiated against the 1st applicant and punishment was also imposed on him. It is not the case of the applicants that, by the time the orders of appointment were issued to the other selected candidates, the 1st applicant was capable of being retired.

6. The question as to whether the imposition of punishment of compulsory retirement on the 1st applicant can be treated as an impediment for appointment of the 2nd applicant under the relevant provisions of law needs to be considered, particularly in the light of the recent judgment of the Hon'ble Supreme Court quashing the entire scheme of LARSGESS.

7. We leave it open to the applicants to make a representation to the respondents enclosing relevant documents. The respondents shall examine the matter in some detail, keeping in view the relevant provisions of law as well as

the judgment of the Hon'ble Supreme Court. In case the applicants make a representation within two months from the date of receipt of the order, orders thereon shall be passed by the respondents strictly in accordance with law within three months thereafter. We make it clear that this order shall not be treated as conferring any right, on the applicants. OA is accordingly disposed of.

8. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 11th day of November, 2019

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