

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00280 of 2016

Date of order 13.11.2019

CORAM
HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER (J)
HON'BLE DINESH SHARMA, MEMBER (A)

- 1 Arvind Kumar Yadav, s/o Boudhi Prasad Yadav, Resident of Village+P.O. Auraiya Rajla, P.S. Jhajha, District-Jamui-811308.

..... Applicant.

By advocate: Sri Jayant Kumar Karn.

Verses

1. The Government of India (Bharat Sarkar) Ministry of Railway (Rail Mantralaya) (Railway Board) New Delhi.
2. The Union of India through General Manager, E.C. Railway, Hajipur Zone.
3. The Divisional Personnel Officer, East Central Railway, Danapur.
4. The University Grants Commission, Bahadur Shah Jafar Marg, New Delhi.
5. The Assistant Personnel Officer-3, Eastern Central Railway, Danapur..
6. The Chief Crew Control, T.R.S. Jhajha, Jamui.

..... Respondents.

By advocate: Sri Rajesh Mohan.

ORDER (ORAL)

Per Jayesh V. Bhairavia, Member (Judl.):- The instant OA has been filed by the applicant against the order dated 14.08.2015, by which he has been denied appointment under LARSGESS Scheme on the sole ground that applicant's degree of Diploma in Mechanical is not recognized for the appointment under the LARSGESS Scheme vide RBE No. 165/2011 and RBE No.230/1990, therefore, the applicant has prayed for quashing and setting aside the impugned order dated 14.08.2015

(Annexure-A/4) and prayed for issuance of appointment under LARSGESS Scheme.

2. The brief facts of the case are that in pursuance of Letter/Advertisement dated 06.07.2012, the applicant has applied for appointment of his ward for recruitment under LARSGESS Scheme. It is further stated that after passing of written and aptitude test, applicant's appointment was denied on the sole ground that his certificate of Diploma/degree through distance education mode is not valid for appointment in Railway. It is submitted by the applicant that his degree is duly recognized by the UGC like institution and the same is recognized for all the public employment under the Central Government. Hence, the OA.

3. The respondents have filed their written statement denying the claim of the applicant. It has been further submitted that in second written test, the applicant was found successful and during verification of documents/certificates, it came to the notice that applicant having Diploma in Mechanical Engineering from Ambedkar Institute of Technology, Patna, but certificate issued from Institute of Advance Studies in Education, Deemed University, Gandhi Vidya Mandir Shardashar (Rajasthan). Then his case was referred to Head Quarter and after verification it was found that the Institute imparts Diploma/Degree in Distance

Education mode, is not valid for employment in Railway. It is further stated by the respondents that a notification was published for general information on 19.07.2016 by UGC that suitability of any course/degree/diploma must be in consonance with requirement of concerned department/authorities. Hence, the candidature of the applicant for appointment under LARSGESS Scheme has been rejected.

4. We have heard the parties and perused the material on record. At the very outset it is required to state that the LARSGESS scheme was introduced by the respondent railway "prima facie, does not found to stand to the test of Article 14 and 16 of Constitution of India." It had directed the respondents that "before making any appointment under the offending policy, let its validity and sustainability be revisited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment." Thereafter, in its judgement dated 14.07.2017 in Review Petition the Hon'ble High Court reiterated its earlier direction and stated "such a direction was necessitated keeping in view the mandate of the Constitution Bench in **State of Karnataka Vs Uma Devi,(2006) 4 SCC 1."**

5. In the Appeal against the judgement of the Hon'ble High Court of Punjab & Haryana, the Hon'ble Supreme Court of India, while disposing of the SLP (C) No. 508/2018 vide its order

dated 08.01.2018, declined to interfere with the directions of the High Court. Accordingly, the respondents had decided to terminate the LARSGESS scheme vide order RBE No. 150/2015 dated 26.09.2018 and subsequently, vide RBE No. 151/2018 dated 28.09.2018 wherein it is stated that while the LARSGESS scheme continues to be on hold with effect from 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 the wards/candidates can be made with the approval of the competent authority.

6. In the present case, it is noticed that the applicant's degree of Diploma in Mechanical is not recognized for appointment under the LARSGESS Scheme vide RBE No. 165/2011 and RBE No.230/1990 therefore, the relief as claimed by the applicant cannot be entertained. It is further observed that since the LARSGESS Scheme has been declared unconstitutional by the Hon'ble High Court of Punjab & Haryana therefore no relief can be granted under LARSGESS Scheme. Accordingly, the O.A is dismissed with no order as to costs.

(Dinesh Sharma)/M(A)
Bp

(Jayesh V. Bhairavia)/(M) J