

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT RANCHI

O.A. NO. /51/970/2019

CORAM

HON'BLE SHRI JAYESH V. BHAIRAVIA, MEMBER (JUDICIAL)
HON'BLE SHRI DINESH SHARMA, MEMBER (ADMINISTRATIVE)

DATE OF ORDER 14.10.2019.

1. Hari Kirtan Prasad ,age about 64 yrs. s/o Late Dwarka Prasad now retired as Electric Loco Pilot (M) under TF®. E.C. Railway, Dhanbad resident of Diamond crossing, Railway colony, Dhanbad.
2. Tilak Dhari Prasad age about 64 yrs. s/o Late mansudan Modi now retired as Electric Loco Pilot under CTF ® at Gomoh, Dhanbad resident of Rly Qtr No. 150/QR, Durga Pada, Gomoh, P.O.- Gomoh, District- Dhanbad.
3. Md. Irfan age about 64 yrs s/o Ashraf Ali now retired as Electric Loco Pilot under CTF®, Gomoh, E.C. Railway, Dhanbad resident of Rly Qtr No. 57 I, Railway colony, Katras, P.O.- & P.S. Katras, District- Dhanbad.
4. Narayan Chandra Acharjee, age about 64 yrs. s/o Late Satish Chandra Acharjee now retired as Electric Loco Pilot at Patherdih (PEH) under TF® E.C. Railway, Dhanbad, resident of Patherdih colony, Qr. No. 107/E patherdih, P.O.-Patherdih, District- Dhanbad-828119.

.....Applicant

By advocate : Shri M.A. Khan

Versus

1. Union of India through General Manager, East Central Railway, Hajipur, Vaishali-844101.
2. Divisional Railway Manager, East Central Railway. DRM Building, P.O. & P.S.- Dhanbad, District- Dhanbad-826001.
3. Divisional Personnel Officer, East Central Railway, P.O. & P.s. Dhanbad. District Dhanbad-826001.

.....Respondents

By Advocate : Shri Prabhat Kumar

ORDER (ORAL)

Jayesh V. Bhairavia, Member (Judl.) :- In the instant O.A, the applicants have claimed for the benefit under LARSGESS Scheme. It is noted that earlier applicants have filed O.A./051/00044/2015 which was allowed by this Tribunal vide order dated 18.10.2016 (Annexure A/1). The said order was challenged before the Hon'ble High Court of Jharkhand at Ranchi through WP(S) No.1726/2017. The Hon'ble High Court vide its order dated 29.11.2017, set aside the order of this Tribunal. Thereafter, the applicant approached the Hon'ble Apex court through SLP (Civil) No. 16516/2018 challenging the order of Hon'ble High Court.

However, the same was dismissed as withdrawn vide order dated 30.07.2018. In the said order, Hon'ble Apex Court observed that :-

“Delay condoned. Learned counsel appearing for the petitioner has submitted that the petitioners want to file representation and hence prayed for withdrawal of the special leave petition. Statement is placed on record. Without commenting on the aforesaid prayer, the special leave petition is dismissed as withdrawn.”

2. In the instant O.A., it is the grievance of the applicant that subsequent to dismissal of SLP, he has submitted a representation through his lawyer on 31.10.2018 praying for grant of benefit under the LARSGESS Scheme followed by reminder dated 28.02.2019. The said representation remained unanswered. The l/c counsel for applicant further submitted that vide circular dated 12.07.2019, Railway Board had decided to consider the cases prior to 27.10.2017 under LARSGESS Scheme as per rules. (Annexure A/5). Since the claim of the applicant pertains to cycle 2012 his case is required to be re-examined by the respondent Railway Board, hence this O.A.

3. It is noted that the applicant has filed one M.A. bearing no. 371/2019 for allowing the applicants for filing this O.A. jointly. The same is allowed.

4. On the other hand, Shri Prabhat Kumar appeared on behalf of official respondents on receipt of advance copy and submitted that since the case of applicant has been dismissed by the Hon'ble High Court as well as Hon'ble Supreme Court and there is nothing in the order of Hon'ble Apex Court to re-consider the of applicant, hence for the same cause of action, case of applicants is not acceptable. He further submitted that now the LARSGESS Scheme is not in existence.

5. Heard the parties and perused the materials on records. It is noted that the claim of the applicant for grant of benefit under LARSGESS Scheme was initially allowed by this Tribunal vide order dated 18.10.2016 in O.A. 44/2015. However, the said order was quashed and set aside by the Hon'ble High Court of Jharkhand at Ranchi vide order dated 29.11.2017 in WP(S) No. 1726/2017 and the SLP filed against the said order of High Court was dismissed as withdrawn on 30.07.2018 by the Hon'ble Apex Court, therefore we are of the considered opinion that the claim of the applicant for appointment under LARSGESS Scheme cannot be allowed to be re-agitated again in this O.A. Moreover, the submission of the applicant that the applicants submitted a representation through his lawyer on 31.10.2018 followed

by reminder dated 28.02.2019 for grant of benefit under LARSGESS Scheme. Since the Railway Board had decided to consider the cases prior to 27.10.2017 under LARSGESS Scheme as per Circular dated 12.07.2019 and the claim of the applicant pertains to cycle 2012, his case ought to have been re-examined by the respondents. The said submission of the applicant is not acceptable for the reasons that the very issue for consideration of claim for appointment under LARSGESS Scheme for cycle 2012 was attained finality as per the order dated 30.07.2018 passed by the Hon'ble Apex Court . In other words, the order passed by the Hon'ble High Court in WP(S) 1726/2017 has attained finality. Now there is no need to entertain this O.A in absence of any direction of Hon'ble High Court or Hon'ble Apex Court for consideration of representation of applicant, hence the O.A. is dismissed. No costs.

(Dinesh Sharma)
Member (Admn.)
mks

(Jayesh V. Bhairavia)
Member (Judl.)