

(2018) 12 CAT CK 0151

In the Central Administrative Tribunal

Case No : Original Application No. 412 Of 2017, Miscellaneous Application No. 403 Of 2017

Birendra Kumar And Ors

APPELLANT

Vs

Union Of India And Anr.

RESPONDENT

Date of Decision : 18-12-2018

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2018) 12 CAT CK 0151

Hon'ble Judges : Nita Chowdhury, Member (A), S.N. Terdal, J

Bench : Division Bench

Advocate : PS Khare, VSR Krishna, Rahul Pandey

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. MA No. 403/2017 for joining together is allowed for the reasons stated therein.
2. The applicants have filed this Original Application (OA) claiming the following reliefs:-

"8.1 to allow the OA and direct the respondents to consider the cases of the petitioners (Ann. A-3) under the LARSGESS Scheme treating them to have been attached with the Technician/WTM and also deeming the petitioners to retired from under service from the date they became eligible and accordingly they applied under the LARSGESS Scheme and consider and release the appointment in favour of their Wards on the suitable post with all consequential benefits of pay & allowances and seniority etc.; and

8.2 to pass any other or further order or direction as the Hon"ble Tribunal may deem just and proper as per facts and circumstances of the case besides cost and expenses of the present litigation to the tune of Rs.50,000/-."

3. When the matter is taken up for hearing, both the counsel for the parties are

present.

4. In a similar case, i.e. OA No. 960/2016 (Pala Ram v. Union of India & Ors.), it is found that the Railway Board, vide its letter No.E(P&A)I-2015/RT-43 dated 26.09.2018, has terminated the LARSGESS Scheme in view of directions of Hon"ble High Court of Punjab and Haryana and the orders of Hon"ble Supreme Court in SLP (C) No. 508/2018 dated 08.01.2018. The said order of the Railway Board reads as under:-

"Sub: Termination of the LARSGESS Scheme in view of directions of Hon"ble High Court of Punjab and Haryana and the orders of Hon"ble Supreme Court of India in SLP (C) No. 508/2018 dated 08.01.2018. Ref: Board"s letter of even number dated 27.10.2017. The Hon"ble Punjab and Haryana High Court in its judgment dated 27.04.16 in CWP No. 7714 of 2016 had held that the Safety Related Retirement Scheme 2004 (later renamed as the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS, 2010) "prima facie does not stand to the test of Articles 14 and 16 of the Constitution of India" It had directed "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 judgment dated 14.07.17 (Review Petition RA-CW-330-2017 in CWP No. 7714 of 2016), 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."

1.1 In the Appeal against the judgment 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 dt. 8.01.18, declined to interfere with the directions of the High Court.

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."

5. From the facts of this case, it is clear that the respondents had not granted the request of the applicant to be considered for voluntary retirement and that as per Para 2 of the aforesaid Railway Board"s letter, the scheme of LARSGESS has now been terminated w.e.f. 27.10.2017.

6. In view of the above facts and circumstances, nothing remains to be

adjudicated in this matter and the OA is accordingly dismissed. No order as to costs.