

(2019) 01 CAT CK 0001

In the Central Administrative Tribunal

Case No : Original Application No. 330, 1402 Of 2018

Radhey Shyam

APPELLANT

Vs

Union of India And Ors

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2019) 01 CAT CK 0001

Hon'ble Judges : Bharat Bhushan, J; Mohd Jamshed, J

Bench : Division Bench

Advocate : D Kumar Mishra, D C Yadav, Shesh Mani Mishra

Final Decision : Disposed Off

Judgement

Bharat Bhushan, Member, J

1. Shri Dinesh Chandra Yadav, learned counsel for the applicant and Shri Shesh Mani Mishra, learned counsel for the respondents are present.

2. This Original Application (OA) has been filed for following reliefs:-

"(i) To issue, an order or direction in the nature of mandamus commanding the respondents to consider the case of applicant for voluntary retirement under LARSEGESS Scheme and to issue the appointment orders in favour of his son with time bound period.

(ii) To issue, a direction to the respondents including respondent no. 2 and 4 proceed the matter of the applicant in accordance with law in early days.

(iii) To issue any order, direction or further orders which this Hon'ble Court may deem fit and proper in the present facts and circumstances of the case.

(iv) Award costs in favour of the applicant."

3. Civil Miscellaneous Delay Condonation Application No. 2752 of 2018 has been moved for condonation of delay in filing the OA. We are inclined to send this

matter to the competent authority for consideration. The cause shown in the delay condonation application is sufficient. Accordingly, MA No. 2752 of 2018 is allowed and the delay in filing the OA is condoned.

4. It appears that the applicant had submitted an application in the year 2012 seeking voluntary retirement and appointment of his son under the Liberalised Active Retirement Scheme for Guaranteed Employment of Safety Staff (in short LARSGESS) before the General Manager, NCR, Subedarganj, Allahabad

5. Subsequently, the son of the applicant namely, Surendra Kumar Dubey appeared in the written examination held on 23.09.2012 and he was declared successful in the written examination. The applicant was also called for verification of documents of his son for his permanent appointment. The son of the applicant was also declared medically fit for Group-D services vide medical certificate dated 05.04.2013. The applicant submits that the concerned authorities have not issued the order for his voluntary retirement and appointment of his son under the LARSGESS Scheme.

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. 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 which is not normal superannuation 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.

9. In view of the circumstances as discussed above, this OA is finally disposed of by remitting the matter back to the respondent no.1 i.e., General Manager, NCR, Allahabad/Competent Authority to consider the case of the applicant in the light of the Railway Board's letter no. R.B.E. No. 150/2018 dated 26.09.2018 and pass appropriate speaking and reasoned order under intimation to the applicant within three months from the date of receipt of certified copy of this order.

10. It is made clear that we have not expressed any opinion about the merit of the case. There is no order as to cost.