

(2018) 07 CAT CK 0086

In the Central Administrative Tribunal

Case No : Original Application No. 3977 Of 2017, 2633, 2634 Of 2018

Ram Sewak And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 17-07-2018

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2018) 07 CAT CK 0086

Hon'ble Judges : Praveen Mahajan, Member (A); S.N. Terdal, J

Bench : Division Bench

Advocate : A.K. Bhakt, U. Srivastava

Final Decision : Dismissed

Judgement

Praveen Mahajan, Member (A)

1. As the point involved in these three OAs is common, they are being disposed of by a common order. The applicants or their wards are claiming the benefit of Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS) formulated by the Railways. In all these cases, the Railways have not made final offer of appointment under this Scheme to the applicants.

2. The Constitutional validity of the LARSGES Scheme came up before various Benches of this Tribunal, including the Principal Bench, New Delhi, and the Scheme was quashed by the Principal Bench by holding that the same is unconstitutional. However, the said decision was set aside and remanded back by Hon'ble High Court of Delhi on technical grounds. Similar is the situation with certain other Bench decisions on the validity of the Scheme.

3. On a reference, a Full Bench of this Tribunal in OA-1540/2013, dated 07.08.2015 in R. Krishna Rao vs. Union of India & Others, upheld the legality and validity of the LARSGES Scheme.

4. When these OAs were taken up for hearing, it is brought to our notice that in

CWP No.7714/2016, the Hon'ble High Court of Punjab & Haryana at Chandigarh by its judgment dated 27.04.2016 in Kala Singh and Others vs. Union of India & Others by holding that the LARSGES Scheme does not stand to the test of Articles 14 and 16 of the Constitution of India and that the policy is a device evolved by the Railways to make back-door entries in public employment and brazenly militates against equality in public employment, directed the Railway authorities that hitherto before making any appointment under the offending policy, its validity and sustainability be re-visited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment.

5. It is further seen that the SLP (C) No.4482/2017 filed against the decision in Kala Singh & Others (supra) was dismissed by the Hon'ble Apex Court by its Order dated 06.03.2017. Thereafter, the Review Application No. RA-CW-330/2017, dated 14.07.2017 filed by the Railways in Kala Singh & Others (supra) before the Hon'ble High Court of Punjab and Haryana was also dismissed on 14.07.2017.

The applicants have failed to show any decision of any Hon'ble High Court or Hon'ble Supreme Court where the validity of LARSGES Scheme was upheld.

6. It is also relevant to note that an identical Scheme like LARSGESS, framed for the benefit of the employees of the Singareni Collieries Company Limited, was declared to be violative of Articles 14 and 16 of the Constitution of India by the Hon'ble High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh, and the said decision was upheld by the Hon'ble Apex Court by its Order dated 17.04.2017 in SLP-11566/2017 (Telangana Boggu Gani Karmika Sangam vs. K. Satish Kumar and Others).

7. In the circumstances and in view of the decision of the Hon'ble Supreme Court in Telangana Boggu Gani Karmika Sangham (supra) and for the aforesaid reasons, the present OAs are dismissed in limine being devoid of merit. No costs.

8. Registry is directed to place a copy of this order in all the relevant OA files.