
(2018) 08 CAT CK 0153

In the Central Administrative Tribunal

Case No : Original Application No. 2146 Of 2014

Sanjay Kumar And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 06-08-2018

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2018) 08 CAT CK 0153

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

Bench : Division Bench

Advocate : Yogesh Sharma, Shailendra Tiwary

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned orders dated 14.03.2014 (Annex. A/1), order dated 08.01.2014 (Annex. A/2) and medical certificate dated 09.05.2013 (Annex.A/3), and also quashing all the proceedings of the medical examination of the applicant by which the applicant No.1 has been declared medically unfit in A-2 category for the post of Pointsman declaring to the effect that the same are wrong, baseless and issued in arbitrary manner.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order of directing the respondents to get the applicant No. 1 medically examined by an independent medical board at AIIMS New Delhi, Dr. R.M.L. Hospital, New Delhi or at Safdarjung Hospital, New Delhi or in any other Govt. Hospital on the issue whether, the applicant No.1 has any eyes problem as per the Medical Requirement of the Railway for the post of Pointsman and the case of the applicant no.1 may be considered of his appointment to the post of Pointsman or

any other post on the basis of the medical report given by the independent medical Board with all consequential benefits under LARSGESS Scheme.

(iii) Any other relief which the Honble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

2. The applicant No.2, in this OA, was the employee of the Railways and seeking employment under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short, LARSGES Scheme) for his son (applicant no.1.

3. When the present OA was taken up for hearing, it was found 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 v. 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.

4. It is further seen that the SLP (C) No.4482/2017 filed against the decision in Kala Singh & Others (supra) was dismissed by the 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.

5. 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 No. 11566/2017 (Telangana Boggue Gani Karmika Sangam v. K. Satish Kumar and Others).

6. Further, it may also be mentioned that the same very issue, as raised in this OA was already considered and adjudicated by the Co-ordinate Benches of this Tribunal in OA No. 3936/2017 and batch - Jai Prakash and Others v. Union of India & Ors. and after considering the judgment of the Apex Court judgment in the case of Telangana Boggue Gani Karmika Sangham (supra), the said OAs were dismissed. Hence, that judgment has attained finality.

7. In the circumstances and in view of the decision of the Hon'ble Apex Court in Telangana Boggue Gani Karmika Sangham (supra) and for the aforesaid reasons, the instant OA is dismissed being devoid of any merit. No costs.