

(2019) 01 CAT CK 0011
In the Central Administrative Tribunal
Case No : Original Application No.330, 02 Of 2019

Shriram And Ors

APPELLANT

Vs

Union of India And Ors

RESPONDENT

Date of Decision : 08-01-2019

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2019) 01 CAT CK 0011

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

Bench : Division Bench

Advocate : Rakesh Verma, Shesh Mani Mishra

Final Decision : Disposed Off

Judgement

Bharat Bhushan, J

1. Shri Rakesh Verma, Advocate for the applicant and Shri Shesh Mani Mishra, Advocate for the respondents are present.

2. The applicants have filed this Original Application for following relief(s):-

"i. to issue a writ, order or direction in the nature of mandamus directing the Respondent Nos. 2 and 3 to give effect to its office order No.73/2017 dated 17.02.2017, so far as it relates to the petitioners, keeping in view of the provisions contemplated under the Railway Board Circular dated 28.09.2018 which fully covers the case of both the petitioners herein for extending the benefit under the LARSGESS Scheme and the respondents be directed to issue appointment order in respect of the Petitioner No.2 and to permit him to join and simultaneously retiring the Petitioner No.1 from service with settlement of his all retiral benefits, within a period as may be fixed by this Hon'ble Tribunal.

ii. to issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.

iii. to award cost of petition in favour of the petitioners."

3. It appears that Railway was running a Scheme known as Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (in short LARSGESS).

4. Applicant No.1 was working as Trackman under the control of the Senior Section Engineer, Agra Cantt. Applicant No.2 Surendra is the son of Shri Ram, the applicant No.1. The applicant No.2 reportedly qualified for the selection under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff and his father, the applicant No.1 was allowed to retire under the above scheme. He claims that offer of appointment was made in favour of the applicant No.2 which he accepted. Subsequently, in view of the various judgments of the Courts this appointment order was not issued.

5. Main relief in the OA is appointment of the applicant/dependent of the applicant, who is a railway servant, who claims his entitlement under the Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff.

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 08.01.2018, the 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 appointment should be made under the Scheme except in cases where employees have already retired under the LARSGESS Scheme before 27.10.2017 (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 27.10.2017 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. Subsequently, another Circular dated 28.09.2018 (RBE No.15/2018) was issued. The contents of circular is reproduced as below:-

"In supersession to Railway Board's letter No.E(P&A)1-2015/RT-43 dated 26.09.2018, it is stated that while the LARSGESS Scheme continues to be on hold with effect from 27.10.2017 on account of various court cases, to impact natural justice to the staff who have already retired under LARSGESS scheme before 27.10.2017 (but not naturally superannuated) and appointment of whose wards was not made due to various formalities, appointment of such of the wards/candidates can be made with the approval of the competent authority."

9. 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, who are not normally superannuated 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.

10. In view of the circumstances as discussed above, this OA No.330/02/2019 is finally disposed off by remitting the matter to the Respondent No.1 to consider the case in the light of the Railway Board order dated 26.09.2018 (R.B.E. No.150/2018) as well as Circular dated 28.09.2018 (RBE No.15/2018) and to pass an appropriate speaking order under intimation to the applicant within three months from the date of receipt of a copy of this order. It is made clear that we have not expressed any opinion about the merit of the case while passing this order. There will be no order as to costs.