

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 38487 of 2016

ORDER: (*Per VRS,J*)

The 1st petitioner is the father and the 2nd petitioner is the son. When the 1st petitioner was employed as a Senior Trackman in Railways, the Railway Administration came up with a scheme way back in 2004 known as "Safety Related Retirement Scheme". Under the said Scheme, certain categories of posts, such as Gangmen, were declared as safety categories, and they were permitted to take voluntary retirement, subject to the condition that one of their wards could be given employment, if they passed a written examination and qualified in a physical education test.

2. Subsequently, the Scheme was modified in the year 2011. The new Scheme was known as "Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff" (LARSGESS).

3. The 1st petitioner applied for his own retirement and the appointment of his son, the 2nd petitioner. The application was under the second cycle of the LARSGESS 2011. But, the 1st petitioner had not completed 20 years of qualifying service, as per the Railway

Board letter, dated 11.09.2010. Therefore, the case of the petitioners could not be considered under the second cycle of the LARSGESS 2011.

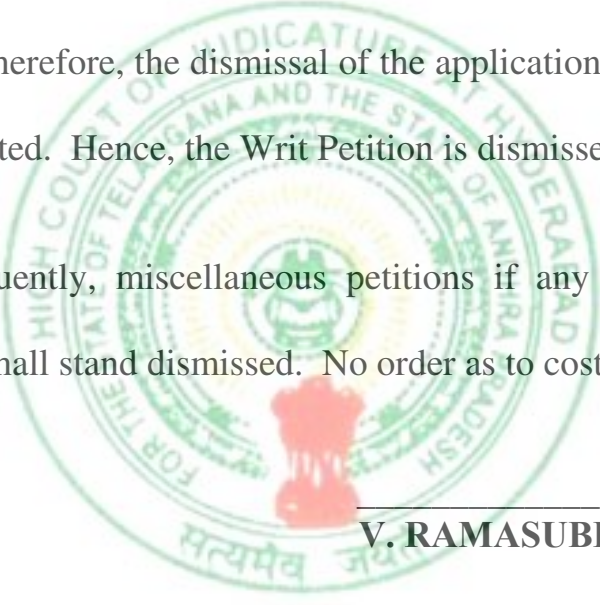
4. Thereafter, the 1st petitioner submitted an application under the first cycle of LARSGESS 2013. That application was rejected, by an order, dated 25.05.2015, on the ground that 20 years of service should have been completed in the specified safety category post, and that the 1st petitioner rendered a part of the service not in the specified safety category post.

5. Challenging the said order, the petitioners filed an application in O.A.No.119 of 2016 on the file of the Central Administrative Tribunal. The Tribunal dismissed the application by an order, dated 20.01.2016, on the short ground that the entire LARSGESS Scheme had been struck down as unconstitutional by the Principal Bench of the Central Administrative Tribunal, in O.A.No.2578 of 2013, dated 08.07.2015. It is against said order that the present writ petition is filed.

6. There are two points that stare against the petitioners. The first is that the Principal Bench of the Central Administrative Tribunal had already declared the LARSGESS Scheme to be unconstitutional.

7. In any case, the petitioners may not be entitled to any relief, in view of the fact that the 1st petitioner has now reached superannuation, upon completing the age of 60 years. The very purpose of the LARSGESS Scheme is to ease out the existing employees in safety categories, to enable their wards to step in. The LARSGESS Scheme contemplates the exit of the employee and the entry of the employee's ward, to take place simultaneously. This is not possible now, in view of the fact that the 1st petitioner had the benefit of continuance up to the completion of the age of 60 years, which is the normal date of retirement. Therefore, the dismissal of the application by the Tribunal cannot be faulted. Hence, the Writ Petition is dismissed.

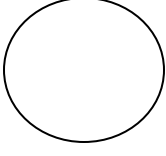
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.



V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

9th November, 2016
cbs



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