

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 38556 of 2016

ORDER: (*Per VRS,J*)

The petitioners, who are father and son respectively, have come up with the present writ petition, challenging an order of the Central Administrative Tribunal dismissing their claim seeking a direction to consider the case of the 2nd petitioner for appointment under a Scheme known as "Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff".

2. Heard Ms. S. Anuradha, learned counsel for the petitioners. Mr. P. Bhaskar, learned standing counsel for Railways, takes notice for the respondents.

3. The Railway Administration came up with a Safety Related Retirement Scheme way back in 2004 for persons employed in certain safety category posts. As per the said Scheme, Drivers and Gangmen, who had completed 33 years of qualifying service and in the age group of 55-57 years, were permitted to seek voluntary retirement. The wards of such employees were permitted to write an examination, and if found eligible, they were granted appointment. The Scheme

was designed in such a manner that the exit of the serving employee will take place simultaneously with the entry of the ward of the employee.

4. The aforesaid Scheme was modified in 2010 and came to be known as “Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff” (for short ‘LARSGESS Scheme’). Under the LARSGESS Scheme, persons, who had completed 20 years of service, became eligible. However, the other conditions remain the same.

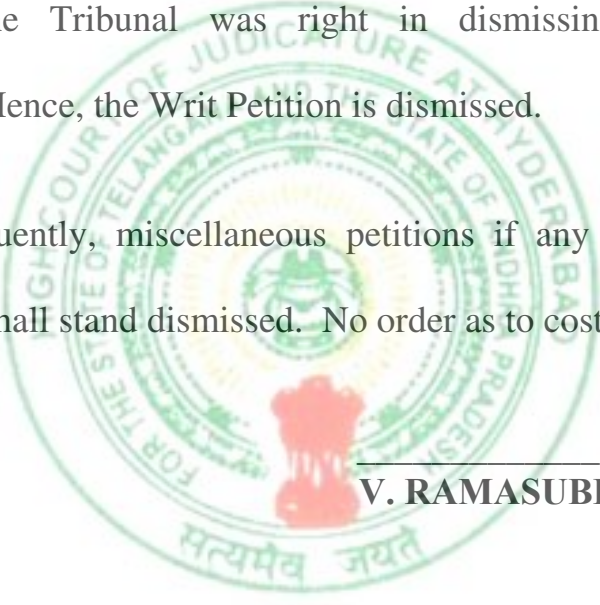
5. It appears that the 2nd petitioner wrote an examination, but failed on the first attempt. He wanted to appear the second time in 2013, but he was denied the chance. Therefore, the petitioners filed an application in O.A.No.1307 of 2014 before the Tribunal. The Tribunal dismissed the application, forcing the petitioners to come up with the present writ petition.

6. As pointed out by the Tribunal, the benefits of the LARSGESS Scheme cannot be extended to the petitioners any more. The 1st petitioner completed full tenure of service and retired on reaching the age of superannuation on 30.06.2015. The benefit of the LARSGESS Scheme cannot be extended to persons, who have completed their normal tenure of service.

7. The argument that there was delay on the part of the Administration, cannot be accepted, since the delay did not cause any prejudice to the petitioners. Since the 1st petitioner has been allowed to continue up to the date of his superannuation, the grant of appointment to the 2nd petitioner would tantamount to conferment of two benefits upon the family.

8. Moreover, the Principal Bench of the Tribunal appears to have declared the LARSGESS Scheme itself to be unconstitutional. Therefore, the Tribunal was right in dismissing the original application. Hence, the Writ Petition is dismissed.

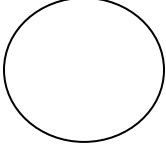
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.



V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

9th November, 2016
cbs



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