

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE DR JUSTICE SHAMEEM AKTHER

W.P. No. 17638 of 2017

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

1) This writ petition is filed seeking to quash the order dated 10.04.2017 in O.A/ 021/ 01155/ 2016 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and consequently direct the respondents to declare the petitioner as eligible for voluntary retirement from service as on 01.07.2014 under Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff (for brevity "LARSGESS Scheme") on the strength of the judgment dated 18.09.2015 in W.P.No. 25260 of 2002 delivered by a Full Bench of this Court.

2) The brief facts of the case are that the petitioner filed O.A./ 021/ 01155/ 2016 seeking a direction to the respondents to consider the representation dated 23.10.2015 for voluntary retirement from service as on 01.07.2014 under LARSGESS Scheme taking into consideration the Full-Bench Judgment of the Andhra Pradesh and Telangana State in W.P.No. 25260 of 2002 dated 18.09.2015. Consequently, appoint his son namely B.Mukesh Kumar in any post under Group "D" in Railways, if he is otherwise qualified.

3) The learned counsel for the petitioner submits that since the aforementioned representation was not decided by the respondents – Railway authorities, the petitioner filed O.A/ 021/ 01155/ 2016, and the Tribunal disposed of the same in terms of the order dated 27.04.2016 in C.W.P.No. 7714 of 2016 passed by the High Court of Punjab & Haryana in Kala Singh & Others v. Union of India & Others.

4) It is not in dispute that the High Court of Punjab & Haryana has held that LARSGESS Scheme does not stand to the test of Articles 14 and 16 of the Constitution of India and the policy is a device evolved by the Railways to make back-door entries in public employment, and accordingly, directed the Railway authorities that before making any appointment under the above-stated 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 also not in dispute that the judgment rendered by the High Court of Punjab and Haryana has been challenged before the Supreme Court by way of filing S.L.P. and the same is pending adjudication.

6) The learned counsel for the petitioner submits that the representation dated 23.10.2015 said to have been made by the petitioner is still pending for consideration before the respondents – Railway authorities, as such, the respondents

may be directed to consider and dispose of the representation.

7) Sri P. Bhaskar, learned Standing Counsel for Railways appearing on behalf of respondent Nos.1 to 3 has assured this Court that the petitioner's representation will be decided in accordance with law.

8) Keeping in view of the facts recorded above and the submissions of the learned counsel for both the parties, this Court, without going into the issue whether the LARSGESS Scheme is contrary to Articles 14 and 16 of the Constitution of India and whether the petitioner is eligible to have the benefit of that Scheme, we hereby direct the 2nd respondent – Divisional Railway Manager to take decision on the representation dated 23.10.2015 said to have been made by the petitioner, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and the decision taken shall be communicated to the petitioner in writing within a period of one week thereafter.

9) It is made clear that while deciding the representation, the 2nd respondent shall take into consideration the judgment dated 18.09.2015 in W.P. No. 25260 of 2002 delivered by the Full Bench of this Court.

10) With the above direction, the writ petition is disposed of. No order as to costs.

11) As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

05.06.2017

SURESH KUMAR KAIT, J

bcj

DR. SHAMEEM AKTHER, J

