THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.9001 OF 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the unsuccessful applicant in O.A.No.020/0015/2014 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad. His prayer therein was to declare the proceedings dated 01.11.2012 and 18.02.2013 of the General Manager and the Chief Personnel Officer respectively of East Coast Railway, Bhubaneswar, rejecting his application under the 'Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff (LARSGESS)' (*hereinafter*, 'the Scheme') as per the Notification dated 03.03.2011, as illegal and unjust. A consequential direction was sought to the authorities to consider his case under the said Scheme. The Tribunal took note of the fact that the petitioner rendered full service up to the age of superannuation and retired on 30.09.2014 and therefore the question of considering his case under the Scheme did not arise. On this ground, the Tribunal dismissed his O.A., *vide* order dated 16.02.2016.

It is not in dispute that pursuant to the Scheme notified on 03.03.2011, the petitioner submitted his application on 11.03.2011. To seek the benefit under the said Scheme, the employee has to be within the age bracket of 50 to 57 years as on 30.06.2011 with qualifying service of 20 years as on that date. Employment was guaranteed to the wards of such employees provided they were found eligible/suitable and were finally selected as per due procedure. Clause (6) of the Scheme makes it clear that the retirement of the employee was to be considered only if the ward was found suitable in all respects and the retirement of the employee and appointment of the ward should take place simultaneously. The categories of staff eligible to avail the Scheme were those with grade pay of Rs.1,800/- and those who got financial upgradation in the grade pay higher than Rs.1,800/- under the MACP scheme.

In the case on hand, the application of the petitioner dated 11.03.2011 was rejected on the ground that his grade pay was higher than Rs.1,800/-. Pursuant to the rejection orders impugned in the O.A., the petitioner claims to have filed Mercy Petition dated 20.08.2013 but no orders were passed thereon.

The inescapable fact remains that the petitioner, without resorting to premature retirement so as to avail the benefit under the Scheme, continued in service up to the age of superannuation and retired only thereafter.

Sri P.Bhaskar, learned counsel appearing for the respondent authorities, would draw the attention of this Court to the observations made by another Division Bench of this Court in W.P.No.745 of 2015 and batch. A copy of the order dated 05.12.2016 passed in the said batch of cases is placed on record. Para 14 thereof is relevant and it reads as under:

> "The above important aspect has been lost sight of by the Central Administrative Tribunal. Moreover, the respondents 1 to 103 cannot be granted any relief as on date. It appears that about 117 employees applied under the scheme LARSGESS. Out of them, 6 persons continue to be in service. The remaining 111 continued in service up to the date of retirement and have already reached the age of superannuation. In other words, the parents of more than 90% of the respondents 1 to 103 herein continued to work from the date of announcement of the scheme in the year 2010, upto the date of their normal date of superannuation and have retired.

> Hence, if the order of the Tribunal is sustained, the respondents 1 to 103 will be conferred with two benefits, namely, (1) that of allowing their parents to continue in service up to the normal age of retirement and (2) that of granting appointment to their wards, converting the posts as hereditary posts."

In the light of the aforestated observations and given the fact that the petitioner remained in service up to the age of superannuation, we find no error having been committed by the Tribunal in non-suiting him on that ground.

The writ petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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SANJAY KUMAR,J

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M. GANGA RAO, J

Date: 20.11.2018
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