

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11663 of 2018

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1. Ashimuddin, Son of Late Habbibul Rehman, resident of Village- Teghra, P.O. Teghra, P.S. Azam Nagar, District- Katihar.
 2. Md. Martooz, Son of Ashimuddin, resident of Village- Teghra, P.O.- Teghra, P.S.- Azam Nagar, District- Katihar.

... .. Petitioner/s

Versus

1. The Union of India through Chairman, Railway Board, New Delhi
2. The General Manager, North Frontier Railway Maligaon, Assam.
3. The Divisional Railway Manager, N.F. Railway, Katihar.
4. The Divisional Railway Manager P, N.F. Railway, Katihar.
5. The Sr. Sectional Engineer/P-way/E/Katihar, N.F. Railway, Katihar.
6. The Divisional Engineer, N.F. Railway, Katihar.
7. The APO-III, N.F. Railway, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Saha, Advocate

For the Respondent/s : Mr. Amresh Kumar Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 07-12-2021

This case has been brought under the heading ‘To Be Mentioned’ seeking some clarification from the learned counsel for the parties.

Heard learned counsel for the parties.

This writ petition has been filed on behalf of the petitioners for setting aside the judgment and order dated 04.09.2017 passed in OA No.050/00054/2014 passed by Central Administration Tribunal, Patna Bench, Patna by which prayer of the petitioners to consider their case under the LARSGESS

Scheme was rejected.

Petitioner No. 1 Ashimuddin submitted application under LARSGESS Scheme for voluntary retirement and appointment of his son (petitioner no. 2) to any Group-D post in second phase i.e. July-December (01.07.2011 to 31.12.2011). Petitioners application was received on 29.07.2011 and application were scrutinized up to 31.08.2011 and a list of eligible and ineligible staff was circulated vide letter dated 12.09.2011. A total of 269 candidates were found to be eligible and 267 ineligible as petitioner no. 2 son of petitioner no. 1 did not possess the minimum educational qualification for appointment in railways as such was ineligible and as per the time schedule the process under the scheme was finalized up to 31.12.2011.

Subsequently, Railway issued a fresh guideline vide circular dated 09.12.2011 for relaxation in educational qualification under exceptional circumstances and according to which candidates who did not possess the minimum educational qualification of 10th or ITI or its equivalent shall also be considered for appointment and same became effective from January-June 2013 and as petitioners did not come under the purview of said letter, accordingly he was not called for to submit any document nor he had applied in this phase and

moreover petitioner no. 1 Ashimuddin did not fulfill the eligibility criteria as his date of birth was 16.08.1954 which exceeds the age limit of 57 years.

Learned counsel for the Railways has submitted that since petitioner no. 1 had applied as he was eligible to apply under the LARSGESS Scheme under said phase and petitioner no. 2 being not educationally qualified was ineligible and as such was not considered for appointment under said scheme. In subsequent phases petitioner no. 1 was not eligible for making any application under the LARSGESS Scheme as he had crossed the age of 57 years.

Learned counsel for the Railways relied upon judgment and order passed by the Apex Court in Writ Petition (Civil) No. 78 of 2021 titled as Manjit and Ors Vs Union of India and Ors, relevant portion whereof reads as follows:-

“The reliefs which have been sought in the present case , as already noted earlier, are for a writ of mandamus to the Union of India to appoint the petitioners in their respective cadres. A conscious decision has been taken by the Union of India to terminate the scheme. This has been noticed in the order of this Court dated 6 March 2019, which has been extracted above. While taking this decision on 5 March 2019, the Union of India had stated that where wards had completed all formalities prior to 27 October 2017(the date of termination of the

scheme) and were found fit , since the matter was pending consideration before this Court, further instructions would be issued in accordance with the directions of this Court. Noticing the above decision, this Court, in its order dated 6 march2019, specifically observed that since the scheme stands terminated and is no longer in existence nothing further need be done in the matter. The scheme provided for an avenue of a back door entry not the service of the railways. This would be fundamentally at odds with Article 16 of the constitution. The Union government has with justification discontinued the scheme. The petitioners can claim neither a vested right nor a legitimate expectation under such a scheme. All claims based on the scheme must now be closed.”

The Central Administrative Tribunal dismissed the OA of petitioners which reads as under:-

“Heard the parties. Perused the documents. This is an application for LARSGES Scheme. It is seen from Annexure-A/4 which is the application under LARSGES Scheme filed by the applicant that his date of birth is 16.08.1954 which means that he had already retired on 31.08.2014 after completion of full service on superannuation.

2.The spirit of LARSGES Scheme is that the voluntary retirement and the appointment of the ward is simultaneous. If a Railway employee completed full service, his case will not be considered for appointment under LARSGES Scheme for his ward.

3.There is no merit in this O.A. hence

dismissed. No costs.”

Having heard learned counsel for the parties and going through the materials available on record, this Court does not find any error or infirmity in the order passed by the Central Administrative Tribunal, Patna, and accordingly, the writ petition is dismissed. No order as to costs.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2021
Transmission Date	NA