

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12861 of 2018

1. Habibul Rehman, Son of Late Makbool Rehman, resident of Village- Kandela, P.O.- Sudhani, P.S.- Barsoi, District- Katihar.
2. Md. Raza Alam, Son of Habibul Rehman, resident of Village- Kandela, P.O.- Sudhani, P.S.- Barsoi, 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 General Manager P, North Frontier Railway Maligaon, Assam.
4. The Divisional Railway Manager, N.F. Railway, Katihar.
5. The Divisional Railway Manager P, N.F. Railway, Katihar.
6. The Assistant Divisional Engineer, N.F. Railway, Barsoi, 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 03.05.2017 passed in OA No.767 of 2013 passed by Central Administrative Tribunal, Patna Bench, Patna.

Petitioner No. 1 Habibul Rehman submitted application under LARSGESS Scheme for voluntary retirement and appointment of his son (petitioner no. 2) to any Group-D post in phase January-June, 2013. As per railway board letter dated 11.09.2010 and 29.03.2011, the suitability of the ward was to be decided through written examination and if the ward of an employee becomes unsuccessful in first chance, he shall be given second chance to clear written examination. Petitioner no.2 was declared unsuccessful in both the written examination, as such, the benefit of LARSGEES could not be extended to petitioner no.2.

Subsequently, written examination was dispensed with for the ward of the employees in Grade Pay of Rs.1800/- vide railway board letter dated 23.07.2013 and same was made effective from July, 2013, as in the circular itself, it was clarified that present guidelines will be effective from July, 2013 and past exercise will be governed by earlier circulars. Since Habibul Rehman (Petitioner no.1) opted for January - July, 2013, as such, benefit of subsequent circular could not be extended to him. Petitioner no.1 had superannuated from service after attaining the age of retirement, i.e. 60 years and in terms of LARSGESS scheme, voluntary retirement of the employee and

appointment of his ward has to be done simultaneously, as such, petitioners were not entitled for benefit of LARSGESS scheme.

Learned counsel for the Railways relied upon a 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.”

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