



WEB COPY



W.P.No.33001 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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1. Union of India rep.by
the General Manager
Southern Railway
Park Town
Chennai 600 003

2. The Senior Divisional Personnel Officer
Tiruchirappalli Division
Southern Railway
Tiruchirappalli

.. Petitioners

v.

1. V.Ramamurthy

2. The Registrar
Central Administrative Tribunal
Chennai Bench
Chennai 600 104

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India



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praying for issuance of a Writ of Certiorari, to call for the records from the Hon'ble Central Administrative Tribunal, Chennai in O.A.No.310/00739/2015 and quash the impugned order dated 09.08.2016.

For Petitioners :: Mr.P.T.Ramkumar

For Respondents :: No appearance for R1
R2-Tribunal

ORDER

(Order of the Court was made by D.KRISHNAKUMAR,J.)

None appeared for the first respondent.

2. According to the petitioners, the first respondent was engaged as a casual labour in the petitioner Department and subsequently he was empanelled as Khalasi and posted to work under the control of Signal Inspector, Southern Railway, Villupuram. Thereafter, he was promoted as Trolley Man and Senior Trolley Man and further promoted as Technician Grade III in Signal Department, Villupuram on regular basis with effect from 06.09.2007. While so, the first respondent was diagnosed with illness and he was medically decategorised from B1 category and found fit in C1



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below category with glasses with effect from 24.02.2011. The Chief Medical Superintendent of Railway Hospital also issued a certificate to that effect and based on the same, the first respondent was placed in the supernumerary post with effect from 24.02.2011 by protecting his pay and other allowances, in terms of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995. According to the petitioner Department, the first respondent made an application on 27.07.2011 for voluntary retirement to the petitioners with a request to appoint his son R.Parthasarathy under the LARSGESS Scheme. The said application was rejected by the petitioner Department citing a reason that he was not having 5 years of residual service as per Railway Board Circular dated 14.06.2006, but only having only 3 years, 10 months and 16 days of remaining service. The said rejection order was challenged before the second respondent Tribunal in O.A.No.624 of 2013 and the said O.A., was allowed directing the petitioners to examine the application of the first respondent seeking appointment for his son on compassionate grounds under the LARSGESS Scheme. In deference to the said order, the petitioner Department passed a speaking order on 11.03.2015 rejecting the claim of



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the first respondent. The said order was put to challenge in O.A.No.739 of 2015 and the second respondent Tribunal has again directed the petitioner Department to consider the first respondent's claim under the LARSGESS Scheme. Aggrieved thereby, the present writ petition has been filed.

3. According to the learned counsel appearing for the petitioners, when the first respondent was accommodated in the supernumerary post with effect from 24.02.2011 based on the medical certificate issued by the competent authority and kept under medically decategorised list by protecting his pay and allowances in terms of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995 and was also allowed to continue in service, he cannot seek for his son's appointment under the LARSGESS Scheme at this point of time when he had already retired from service on reaching the age of superannuation. In addition thereto, the learned counsel for the petitioners has also relied upon the decisions of the Hon'ble Supreme Court in *Chief Personnel Officer, Southern Railways and others v. A.Nishanth George*, (2022) 11 SCC 678 and in *Union of India and others v. Bhagwan Deen and another*, AIR 2022



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SC 1714, wherein the Hon'ble Supreme Court has clearly held that the Scheme itself was terminated by the Union of India on 05.10.2019 and the Court has since then consistently refused to accept, acknowledge and uphold any right flowing from the provisions of the Scheme. Therefore, the Tribunal is not justified in issuing a direction to the petitioners to consider the request of the first respondent seeking appointment for his son under the said Scheme.

4. Finding merits on the submissions made by the learned counsel appearing for the petitioners on facts as well as the decisions of the Hon'ble Supreme Court cited supra, we are of the view that the order of the Tribunal is liable to be set aside. Accordingly, the impugned order is set aside and the writ petition stands allowed. Consequently, W.M.P.No.38264 of 2018 stands closed. No order as to costs.

(D.K.K.,J.) (P.B.B,J.)

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Index : yes/no

Neutral citation : yes/no

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