



WP No.2101 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WP No.2101 of 2019

1.Union of India

Represented by the General Manager
Southern Railway,
Park Town, Chennai-3.

2.The Senior Divisional Personnel Officer,
Trichirappalli Division,
Southern Railway.

... Petitioner

versus

R.Yoganandam

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records and the common impugned order in OA No.1342 of 2013 dated 10.06.2016 passed by the Central Administrative Tribunal, Madras Bench, Chennai and quash the same.



WP No.2101 of 2019

For the Petitioners :Mr.S.R.Sundaram

For the Respondents :Mr.T.N.Suresh

WEB COPY

ORDER

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

Challenging the common order in OA No.1342 of 2013 dated 10.06.2016, passed by the Central Administrative Tribunal, Madras Bench, Chennai, the petitioner Railway Department has filed the present writ petition.

2. Brief facts of the case:

2.1. The respondent had joined the Railway service in the year 1974. While the respondent was working as Senior Trolley Man, the railway administration introduced 'Safety Related Retirement Scheme' in the year 2004, which has been renamed as 'Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff' (LARGESS Scheme). As per the said scheme, employees belonging to the cadre of Drivers and Gangman



WP No.2101 of 2019

in the age group of 50-57 years were eligible to seek voluntary retirement on completing 33 years of service, with a further guarantee of appointment to their wards. The respondent submitted representations dated 11.04.2011 and 20.02.2012 followed by a reminder dated 14.09.2012 to the petitioner Department for employment to his son under LARGESS Scheme. Since there was no response from the petitioner Department, the respondent had filed original application in OA No.1342 of 2013, before the Central Administrative Tribunal. The Tribunal, by order dated 10.06.2016, had allowed the said application by holding as follows:

"5. In the light of the above observation, since the applicant has given application at the earliest point of time as per the existing provisions for LARGES Scheme, the respondents are hereby directed to consider the applicant's son for guaranteed appointment in terms of the existing mandatory provisions, if he is otherwise found eligible/suitable under the LARGES Scheme, other than the delay in submission of the application and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. The OA is allowed accordingly. No costs."

2.2. Challenging the said order, the petitioner Department has filed



WP No.2101 of 2019

the present writ petition.

WEB COPY

3. Learned Standing Counsel appearing for the petitioner Department would submit that the respondent had completed 57 years as on 01.01.2012 and the LARSGESS Scheme was brought into effect from July 2011, for which a notification was issued on 19.07.2011, calling upon applications. The claim of the respondent is that he has made a representation on 11.04.2011, for which he has not produced any acknowledgment proof that the same has been received by the petitioner Department. Besides that, the said notification itself was issued on 19.07.2011, subsequent to the representation dated 11.04.2011 of the respondent. When the second application was made by the respondent on 20.02.2012, the respondent herein had already completed 57 years as on 01.01.2012. Therefore, the Department has rejected the claim of the respondent herein for considering his request as he was not eligible under the LARSGESS Scheme for providing employment to his son. Hence, he seeks to allow the writ petition.

4. Learned counsel for the respondent submitted that the respondent



WP No.2101 of 2019

has submitted the application at the earliest point of time as per the existing provisions of the LARGESS Scheme. Therefore, the Tribunal has rightly allowed the original application filed by the respondent. Hence, he seeks to dismiss the writ petition.

5. Heard the parties and perused the materials available on record.

6. It is seen that the first application was submitted by the respondent seeking employment for his son under the LARSGESS scheme, on 11.04.2011. It was prior to the notification dated 19.07.2011 issued by the petitioner Department under the LARSGESS Scheme. Further, the second application was submitted by the respondent on 20.02.2012. On the said date, the respondent had already completed 57 years. Therefore, he was not eligible under the said Scheme. Further, in a catena of judgments, the Hon'ble Supreme Court and this Court, have held that the scheme of compassionate appointment has been given by the Government only as a concession to the family of the employee, to provide financial assistance, at the time of death of employer. Therefore, this Court cannot grant further



WP No.2101 of 2019

concession to the family of the employee, which was not given under the said Scheme. Therefore, there is force in the contention of the petitioner Department. We are bound by the catena of judgments rendered by the Hon'ble Supreme Court and this Court on this issue. Hence, we are inclined to interfere with the order of the Tribunal as the said order is liable to be set aside.

7. In view of the above, the order in OA No.1342 of 2013 dated 10.06.2016 is set aside. Consequently, the writ petition stands allowed. There shall be no order as to costs. WMP No.2353 of 2019 is closed.

[D.K.K., J.] [K.B., J.]
08.04.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
The Central Administrative Tribunal,
Madras Bench, Chennai.



WEB COPY



WP No.2101 of 2019

D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)

WP No.2101 of 2019

08.04.2024

7/7