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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 27.10.2022

+ W.P.(C) 10703/2019

SURINDER SINGH AND ANR. Petitioners

versus

UNION OF INDIA AND ANR. Respondents

+ W.P.(C) 755/2017

UNION OF INDIA AND ORS Petitioners

versus

SITA RAM AND ORS Respondents

+ W.P.(C) 2607/2017 and C.M. No. 11296/2017

UNION OF INDIA AND ANR Petitioners

versus

UTTAM PRASAD SINGH Respondent

+ W.P.(C) 10693/2019

GAURAV SINGH AND ORS. Petitioners

versus

UNION OF INDIA AND ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. P.S. Khare and Mr. H.P. Chakravorti,
Advocates in item no.1
Mr. Ajay Jain, Senior Panel Counsel with Mr.
Keshav Ahuja, Advocate in Item nos. 2 & 3
Mr. J.K. Singh, Standing Counsel for
Railways

For the Respondents: Mr. M.S. Saini, Advocate for R-2, 3, 6,7, 8,
11, 12 and 13 in item No.2
Mr. M.S. Saini, Advocate in item no.3

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioners in W.P.(C) Nos.10703/2019 and 10693/2019 impugn judgments dated 18.08.2017 and 16.01.2019 respectively, passed in their respective Original Applications, whereby the Original Applications seeking grant of benefits under the Liberalized Active Retirement Scheme for Guaranteed Employee for Safety Staff (in short, 'LARSGESS Scheme') was dismissed.

2. Petitioners/Union of India in W.P.(C) Nos. 755/2017 and 2607/2017 impugn judgments dated 09.09.2016 and 17.10.2016 respectively, passed in the respective Original Applications, whereby a direction has been issued to the Petitioner/Union of India to grant benefit to the Petitioners therein of the LARSGESS Scheme.

3. Petitioners in the Original Applications before the Tribunal had all claimed benefits under the LARSGESS Scheme. Petitioners had failed to qualify the aptitude test in their first attempt and were seeking a direction for extension of the benefit of a second chance to appear in the aptitude test.

4. As noticed hereinabove, two Original Applications were dismissed while two other Original Applications were allowed.

5. Original Applications which were dismissed, were dismissed referring to the order of Punjab and Haryana High Court requiring Union of India to reconsider the Scheme. Said direction was issued by Punjab and Haryana High Court in successive petitions noticing that the Scheme provided for an entry to the service without undergoing a competitive selection process.

6. All the Original Applicants in the present petitions are the ones who have not qualified the aptitude test in their first attempt and are seeking a second opportunity at the aptitude test.

7. Judgment of the Punjab and Haryana High Court became subject matter of challenge in SLP(C) 508/2018, wherein the Supreme Court by order dated 08.01.2018 directed Union of India to take a conscious decision in the matter.

8. Pursuant to the directions issued by the Punjab and Haryana High Court and the Supreme Court of India, Union of India on 05.03.2019 took a decision to terminate the Scheme. The decision of the Union of India dated 06.03.2019 is as under :-

“In compliance of the directions of the Hon’ble Punjab and Haryana High Court dated 27.04.2016 in CWP No.7714 of 2016, dated 14.07.2017 in RA-CW-330-2017 and Orders of Hon’ble Supreme Court dated 08.01.2018 in SLP (C) No.508/2018, Ministry of Railways have revisited the LARSGESS Scheme duly obtaining legal opinion and consulted Ministry of Law and Justice. Accordingly, it has been decided to terminate the LARSGESS Scheme w.e.f. 27.10.2017 i.e. the date from which it was put on hold. Therefore, no further appointments should be made under the Scheme subject to position mentioned in para 2 below.

2. As regards the cases where the wards had completed all formalities including Medical Examination under LARSGESS Scheme prior to 27.10.2017 and were found fit, but the employees are yet to retire, the matter is pending consideration before the Hon’ble Supreme Court and further instructions would be issued as per direction of the Hon’ble Court.”

9. Pursuant to the said decision of the Union of India, miscellaneous application was filed before the Supreme Court in SLP (C) No.508/2018, titled *Union of India vs. Kala Singh and Ors.* On 06.03.2019, Supreme Court noticing the decision of the Union of India to terminate the LARSGESS Scheme, held that nothing further needed to be done in the matter as the Scheme stood terminated.

10. Subsequently, a writ petition under Article 32 of the Constitution of India was filed before the Supreme Court, being W.P.(C) 78/2021, titled *Manjit and Ors. Vs. Union of India and Anr.* An issue was raised in the said petition with regard to certain individuals, who had completed all formalities prior to 27.10.2017 (the date of termination of Scheme) and were found fit, however, they were not granted

appointment. In the said writ petition, by judgment dated 29.01.2021, the Supreme Court held as under :-

“6. 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 March 2019, 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 into 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.

7. In view of the above factual background, we are not inclined to entertain the petition under Article 32. The grant of reliefs to the petitioners would only enable them to seek a back door entry contrary to the orders of this Court. The Union of India has correctly terminated the Scheme and that decision continues to stand.”

11. It may be noticed that even to those individuals who had completed all the formalities prior to 27.10.2017 and were found fit,

Supreme Court has not been inclined to grant any relief on the ground that the Scheme stands terminated and is no longer in existence. The Supreme Court has noticed that the Scheme provided for an avenue of a back door entry into the service of the Railways, which would be fundamentally at odds with Article 16 of the Constitution of India and Petitioners therein could neither claim a vested right nor have a legitimate expectation under such a Scheme.

12. In the instant case, all the individuals seeking appointment under the said Scheme claims are ones who were not found fit having failed the aptitude test in their first attempt and are seeking a second opportunity to appear in the aptitude test.

13. Even in respect of individuals, who had been found fit and had even completed all the formalities, Supreme Court was not inclined to grant them appointment in terms of the Scheme, which violated Article 16 of the Constitution of India and which had been discontinued by Union of India. Thus, in the instant case since none of the Petitioners have even reached that stage, we are of the view that no relief can be granted to such individuals for appointment under the said Scheme.

14. In view of the above, orders of the Tribunal directing appointment of the Petitioners in the Original Applications under the said Scheme cannot be sustained and are liable to be set aside and the orders dismissing the Original Applications do not warrant any interference.

15. Consequently, W.P.(C) Nos.10703/2019 and 10693/2019 impugning orders dated 18.08.2017 and 16.01.2019 respectively, are dismissed and W.P.(C) Nos.755/2017 and 2607/2017 filed by Union of India impugning judgments dated 09.09.2016 and 17.10.2016 are allowed and the said orders are set aside.

16. Petitions and the applications filed herewith are accordingly disposed of, in above terms.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

OCTOBER 27, 2022/yg

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